

# EXHIBIT O

# POLICE CHIEF WILLIAM SCOTT VOLUME I

## Frederick (Ric) Schiff vs Greg Suhr

April 06, 2021  
1–4

		Page 1	Page 3
1	UNITED STATES DISTRICT COURT	1	I N D E X
2	NORTHERN DISTRICT OF CALIFORNIA	2	
3		3	WITNESS: POLICE CHIEF WILLIAM SCOTT
4	Frederick (Ric) Schiff; Glenn Brakel;	4	PAGE
5	Alice Dicroce; Joseph Emanuel; Brian	5	EXAMINATION INDEX
6	Greer; Clayton Harmston; Steven Haskell;	6	BY MR. MULLANAX
7	Micah Hope; Daniel Kelly; Alexander Lentz;	7	
8	Brandon McKelley; Gerald Newbeck; David	8	INDEX OF EXHIBITS
9	O'Keeffe; Christopher Ritter; Steven Uang	9	EXHIBITS
10	and Thomas Walsh,	10	Exhibit 1 San Francisco POA Journal from
11	Plaintiffs,		December of 2017
12	Vs.	11	Exhibit 2 A letter from the San Francisco Police
13	CASE NO. 4:19-cv-03260-YGR	12	Officers Association, dated November
14		13	19th of 2018
15	City and County of San Francisco;	14	Exhibit 3 Department Bulletin
16	Greg Suhr, individually; William (Bill)	15	Exhibit 4 Collaborative Reform Initiative, An
17	Scott, individually; and DOES 1-20,	16	Assessment of the San Francisco Police
18	Defendants,	17	Department, dated October, 2016
19	Defendants,	18	Exhibit 5 A letter dated March 7th, 2019
20	-----	19	Exhibit 6 A letter from April 19th, 2019, from
21	DEPOSITION OF	20	the POA's law firm to Chief Scott
22	POLICE CHIEF WILLIAM SCOTT	21	
23	CONDUCTED REMOTELY VIA ZOOM	22	
24	VOLUME I	23	
25	POLICE CHIEF WILLIAM SCOTT VOLUME I Frederick (Ric) Schiff vs Greg Suhr	24	
	April 6, 2021	25	
	10:03 A.M.		
	SAN FRANCISCO, CALIFORNIA		
	Vanessa Harskamp, RPR, CRR, CSR No. 5679		
		Page 2	Page 4
1	APPEARANCES OF COUNSEL	1	SAN FRANCISCO, CALIFORNIA
2		2	TUESDAY, APRIL 6, 2021; 10:03 A.M.
3	For the Plaintiffs Frederick (Ric) Schiff, et al.:	3	
4	LAW OFFICE OF M. GREG MULLANAX	4	
5	M. GREG MULLANAX, Esq.	5	POLICE CHIEF WILLIAM SCOTT,
6	greg@lawmgm.com	6	having been first duly sworn, testified as follows:
7	2140 N. Winery Avenue, Suite 101	7	800.211.DEP0 (3378) EsquireSolutions.com
8	Paso Robles, California 93703	8	EXAMINATION
9	559.420.1222	9	BY MR. MULLANAX:
10	559.354.0997 fax	10	Q. Okay. Good morning, Chief Scott. My name is
11		11	Greg Mullanax and I represent the plaintiff in this
12	For the Defendants:	12	case, and we are here today to take your deposition.
13	PETER A. COWNAN, ESQ.	13	14. But before we get started really, could you please state
14	peter.cownan@sfcityatty.org	15	15. your full name for the record?
15	CAROLINE PAGE, ESQ.	16	16. A. Yes, thank you. William Scott.
16	Caroline.Page@sfcityatty.org	17	17. Q. And that's the common spelling; right?
17	Office of the City Attorney	18	18. A. Yes.
18	1390 Market Street	19	19. Q. And where are you located today during the
19	Fifth Floor	20	20. deposition?
20	San Francisco, California 94102	21	21. A. I'm at my office at 1245 Third Street, San
21	415.554.3863	22	22. Francisco.
22	Also present:	23	23. Q. Have you been deposed before?
23	Brandon McKelley	24	24. A. Yes.
24	Clayton Harmston	25	25. Q. And how many times have you been deposed, if
25	Frederick (Ric) Schiff		you recall?
	Alice Dicroce		25. A. Let's see, I believe four. Somewhere around
	Gerald Newbeck		
	Micah Hope		
	Christopher Ritter		
	David O'Keeffe		



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POLICE CHIEF WILLIAM SCOTT VOLUME I  
Frederick (Ric) Schiff vs Greg SuhrApril 06, 2021  
5-8

Page 5	Page 7
1 four, but I believe four. 2 Q. Okay. So I'm sure you are familiar with the 3 deposition process, but I'll just go over a couple of 4 ground rules before we get started. 5 One of them is remember that your testimony 6 today is under oath, just as if you were testifying in 7 court in front of a judge and jury; do you understand 8 that? 9 A. Yes. 10 Q. If I ask you a question and you don't 11 understand it, please let me know and I'll be happy to 12 rephrase it; do you agree to do that? 13 A. Yes. 14 Q. Okay. Have you reviewed any documents in 15 preparation for your testimony today? 16 A. Yes. 17 Q. And what did you review? 18 A. The secondary criteria for the promotional 19 list of sergeant, lieutenant and captain. 20 Q. For all of the candidates? 21 A. The secondary criteria, as well as the 22 promotional list. 23 Q. Okay. I think since we are at the beginning 24 of the deposition that we agreed to go over the issues 25 having to do with the secondary criteria on April 28th;	1 MR. COWNAN: Yes. 2 BY MR. MULLANAX: 3 Q. Chief Scott, I want to start off with some 4 just basic background information. 5 Where did you grow up? 6 A. Most of my childhood was in Birmingham, 7 Alabama. 8 Q. When did you come out to California? 9 A. 1989. 10 Q. Why did you come out to California in 1989? 11 A. I came out to California when I took a job to 12 join the Los Angeles Police Department. 13 Q. Was that the first job in your law enforcement 14 career? 15 A. Yes. 16 Q. And when you were hired by the L.A.P.D., what 17 was your position? 18 A. I was hired as a police officer. 19 Q. Okay. And how many years did you serve as a 20 police officer for the L.A.P.D. 21 A. 27. 22 Q. Were you -- what was your first promotion 23 after being a patrol officer? 24 A. My first promotion, my first civil service 25 promotion was to detective, to the rank of detective in
1 is that correct, Counsel? 2 MR. COWNAN: We have, but it might be, right 3 now, Greg, it's filling in with Chief Scott about what 4 he references, but what he means when he is talking 5 about secondary criteria, because I can represent to you 6 what I think it is. I don't think it is the entire 7 packet, I think it is the summary, but Chief Scott will 8 have to correct me if I'm wrong. 9 MR. MULLANAX: Is that the summaries like we 10 discussed yesterday in Mr. Sainez's deposition? 11 MR. COWNAN: I believe so, Greg. 12 MR. MULLANAX: Okay. But that's okay. But 13 regarding the deposition on April 28th, I just want to 14 make sure that our agreement is on the record that we 15 have agreed to reconvene on April 28th to go over the 16 issues regarding the secondary criteria and the 17 promotional process and all of that. 18 MR. COWNAN: Yes, we have agreed to that. I 19 do want to talk to you about that, though, because if 20 Chief Scott hasn't yet or hasn't ever reviewed those 21 packets, you may not need to depose him on that regard. 22 With that being said, we did agree to an additional day, 23 yes. 24 MR. MULLANAX: Okay. All right. So are you 25 all ready to proceed now?	1 1995. 2 Q. And were you assigned to a unit like homicide 3 or burglary or anything like that? 4 A. Yes. 5 Q. What unit were you assigned to? 6 A. I was assigned to auto theft. I was assigned 7 to gang investigations. I was assigned to homicide. I 8 was assigned to gangs and sexual assault for a short 9 while as well. 10 Q. So you saw a little bit of everything, then? 11 A. Yes. 12 Q. How many years were you a detective? 13 A. Let's see. In total? In total, I believe 14 about six-and-a-half. 15 Q. And what was your next position after that? 16 A. Sergeant. 17 Q. How long were you a sergeant? 18 A. About two years total. 19 Q. Now, in L.A.P.D. at the time you became 20 sergeant, do you remember what year that was? 21 A. About two-and-a-half years total, I'm sorry. 22 Q. That's okay. Do you remember what year you 23 were promoted to sergeant? 24 A. Yes. 1997. 25 Q. Now, when you applied to become a sergeant,
Page 6	Page 8

POLICE CHIEF WILLIAM SCOTT VOLUME I  
Frederick (Ric) Schiff vs Greg SuhrApril 06, 2021  
9-12

<p>1 did the L.A.P.D. have a similar promotional process as 2 the San Francisco Police Department does? 3 A. It was a civil service process, but there were 4 some differences. 5 Q. So you had to take a test? 6 A. Yes. 7 Q. And did you have any oral interviews or 8 anything like that? 9 A. Yes. 10 Q. And how did they -- at the time you were 11 promoted to sergeant, did they develop a list according 12 to a rank? Ranking? 13 A. Yes. 14 Q. And how did the L.A.P.D. choose those to 15 promote off the list? 16 Was it -- did they do banding, kind of like 17 Rule of Ten or something like that, or did they just 18 pick them in a rank order? 19 MR. COWNAN: I'm going to object to the form, 20 but you can answer, sir.</p> <p>THE WITNESS: I'm sorry, Peter. You were 22 muffled a little bit.</p> <p>MR. COWNAN: I'm objecting on form and 24 relevance, but you can answer if you understand the 25 question, Chief Scott.</p>	<p>Page 9</p> <p>1 detective supervisor. 2 Q. And after you were detective supervisor, what 3 was your next rank? 4 A. Lieutenant. 5 Q. Do you remember what year you were made 6 lieutenant? 7 A. 2003. 8 Q. Okay. And how long were you a lieutenant? 9 A. About four-and-a-half years. 10 Q. And then what was your next rank after that? 11 A. Captain. 12 Q. And how long were you a captain? 13 A. For almost five years. 14 Q. Do you remember what year you were sworn in as 15 captain? 16 A. 2007. 17 Q. And then what was your next rank after 18 captain? 19 A. Commander. 20 Q. And so how long were you a commander? 21 A. Three-and-a-half years, I believe. 22 Q. And what year were you sworn in as commander? 23 A. 2012. 24 Q. And did you have a position after commander 25 with L.A.P.D.?</p>
<p>1 THE WITNESS: Sure. Mr. Mullanax, can you 2 repeat that question? 3 BY MR. MULLANAX: 4 Q. Yes, I can make it a little simpler. I think 5 I messed it up a little bit. 6 But when you were being promoted to sergeant 7 and they put you on a list, did they put the list in 8 rank order? 9 A. There was order of the score and banding 10 within the score. 11 Q. Okay. So then the -- whoever made the 12 decision, they didn't have to go in rank order; is that 13 correct? 14 A. They didn't have to, no. 15 Q. Okay. Now, after you were sergeant, you were 16 sergeant, you said, for about two-and-a-half years. 17 What was your next position? 18 A. I was a sergeant and then I reverted back to 19 detective, at the rank of a detective supervisor. 20 Q. And how long were you a detective supervisor? 21 A. About just short of four years, I believe. 22 Q. What was your next -- 23 A. I'm sorry, Mr. Mullanax. In total probably 24 five years, because I was a detective supervisor before 25 I made sergeant, then I made sergeant and I went back to</p>	<p>Page 10</p> <p>1 A. Yes. 2 Q. And what was that? 3 A. Deputy chief. 4 Q. And when did you become deputy chief? 5 A. I was sworn in, in 2015, I believe. I was 6 acting deputy chief for a couple of months before I was 7 actually sworn in, but I was sworn in at the beginning 8 of '15. 9 Q. And were you deputy chief when you came to the 10 San Francisco Police Department? 11 A. Yes. 12 Q. And when were you sworn in as the chief of the 13 San Francisco Police Department? 14 A. January of 2017. 15 Q. And were you -- tell me what the selection 16 process involved. Was it -- I'll start over. 17 What was the selection process when you 18 became -- when you applied for the San Francisco police 19 chief job? 20 A. It was an application process, submit a 21 resume, an application. From there they conducted 22 interviews for the candidates, I guess the gap that 23 passed the application process, interviewed. So a round 24 of interviews, actually, several rounds of interviews. 25 Q. Who made the final decision to appoint you as</p>

POLICE CHIEF WILLIAM SCOTT VOLUME I  
Frederick (Ric) Schiff vs Greg SuhrApril 06, 2021  
13-16

<p>1 police chief?</p> <p>2 A. My understanding was the mayor.</p> <p>3 Q. And was that Ed Lee?</p> <p>4 A. Yes.</p> <p>5 Q. Okay. So in your current position as police chief, who do you answer to, directly?</p> <p>6 A. I answer to the Police Commission and the mayor.</p> <p>7 Q. Are so do you answer -- this -- I don't remember really how to answer this, but do you answer to them equally or do you have to answer more to the mayor? Or I don't know how that works, so could you explain that, if you understand my question?</p> <p>8 A. I believe I understand your question. The Police Commission oversees the police department, and they are actually a -- I report to the Police Commission.</p> <p>9 Q. Okay.</p> <p>10 A. But I also report to the mayor, because the police department is a part of the Executive Branch. It's an appointed position. So the city charter gives both the Police Commission and the mayor the authority to hire and fire, actually, the police chief.</p> <p>11 Q. So are you considered an at-will employee?</p> <p>12 A. Yes.</p>	<p>Page 13</p> <p>1 put the first page to identify it, and then I'm going to scroll down to the second page. And it says this is the 3 minutes of the meeting that was held on November 16th of 4 2017. Do you recall that after looking at this?</p> <p>5 MR. COWNAN: Well, he may take a second to read through it.</p> <p>6 MR. MULLANAX: Okay. Can you read it? I can make it larger if it's too small on your screen, because it is kind of small print.</p> <p>7 THE WITNESS: No, I can read it, thank you.</p> <p>8 MR. MULLANAX: Okay.</p> <p>9 THE WITNESS: Okay.</p> <p>10 BY MR. MULLANAX:</p> <p>11 Q. Do you recall that meeting?</p> <p>12 A. Yes, I believe that meeting was at the -- at the actual POA office. I believe.</p> <p>13 Q. Okay. And you may be correct. I'm just looking on the minutes it says it was at the United Irish Cultural Center on 45th Avenue, but I have highlighted some portions on here and it said that you made a presentation that night. Do you recall making a presentation to the membership?</p> <p>14 A. Yes, I do. And, actually, where are you reading?</p> <p>15 Q. Just if you look on the third column, just</p>
<p>1 Q. And so what you are saying is that the mayor could fire you or the Police Commission; is that correct?</p> <p>2 A. That is correct. That's my understanding, 5 anyway.</p> <p>3 Q. Okay. So you started in January of 2017. Do you recall attending a meeting at the San Francisco Police Officers' Association in November of 2017?</p> <p>4 A. I attended many meetings at the POA when I first got here, but I don't remember a date. But I'm quite sure that I did attend a meeting in November of 12 2017.</p> <p>5 Q. Do you remember -- I'm going to pull up an exhibit and I will make it Exhibit No. 1.</p> <p>6 (Plaintiff's Exhibit 1 marked for identification)</p> <p>7 MR. MULLANAX: Hopefully I can do this. Let's see here.</p> <p>8 BY MR. MULLANAX:</p> <p>9 Q. Can you see this document, Chief?</p> <p>10 A. Yes.</p> <p>11 Q. Okay. And we are going to mark this as Exhibit 1. And I'll just represent that it's the San Francisco POA Journal from December of 2017. And this,</p> <p>12 I just put -- it's not the whole document, but I just</p>	<p>Page 14</p> <p>1 down the -- after the first paragraph it says, 2 "Presentation by Chief Scott."</p> <p>3 A. Yes.</p> <p>4 MR. COWNAN: Chief Scott, I think Counsel is referring to the second to -- the second line at the very top, which says "United Irish Cultural Center."</p> <p>5 That's where he is looking at.</p> <p>6 THE WITNESS: Oh, okay. Yes, correct.</p> <p>7 BY MR. MULLANAX:</p> <p>8 Q. Thank you. But it says here that you gave a presentation that evening. And I think you said -- do you remember that now?</p> <p>9 A. I do. Yes.</p> <p>10 Q. Okay. And down at the first highlighted portion I have it says "Promotions." And it said that you have an open door policy for anyone who did not get promoted.</p> <p>11 You stated that "The Rule of Ten will continue and that not everyone on the promotional list will get promoted and that more promotions will come in the future."</p> <p>12 Do you recall saying that?</p> <p>13 Is that an accurate rendition of what you said?</p> <p>14 A. I believe that's fairly accurate.</p>

POLICE CHIEF WILLIAM SCOTT VOLUME I  
Frederick (Ric) Schiff vs Greg SuhrApril 06, 2021  
17-20

<p>1 I don't believe it is verbatim, but I believe 2 it is fairly accurate.</p> <p>3 Q. Okay. And then if we go to the last column, 4 the last highlighted portion I have, it says, 5 "President Halloran asked the Chief to explain 6 the Rule of Ten and how he picked one promotional 7 candidate over another."</p> <p>8 And then you can read the rest of the 9 paragraph, or I can read it into the record, whatever 10 you want to do.</p> <p>11 A. I have read it.</p> <p>12 Q. Okay. Is that -- is that an accurate 13 rendition of what you told the membership that night?</p> <p>14 MR. COWNAN: Which part of it, Greg, are you 15 talking about?</p> <p>16 MR. MULLANAX: The part, the last column, the 17 first highlighted portion where it starts off, 18 "President Halloran asked the Chief to explain the Rule 19 of Ten."</p> <p>20 MR. COWNAN: Can you -- you are referring to 21 the entire highlighted section?</p> <p>22 MR. MULLANAX: I'm sorry?</p> <p>23 MR. COWNAN: You are referring to the entire 24 highlighted section that is referring to President 25 Halloran?</p>	<p>Page 17</p> <p>1 determining -- is inferring or saying that I use race, 2 sex or culture as a selection criteria, I don't -- that 3 is not accurate. And that's what, to me, that is 4 inferring the way it is written.</p> <p>5 Q. Okay. In what context did you talk about 6 diversity?</p> <p>7 A. I talked about that the diversity of this 8 department is important.</p> <p>9 Q. Did you talk about --</p> <p>10 A. I also talked about what diversity is. That's 11 where the diversity of experience, diversity of race, 12 diversity of sex. Diversity means many different 13 things.</p> <p>14 Q. Yeah. What is your definition of diversity?</p> <p>15 A. The differences in people.</p> <p>16 MR. COWNAN: Hold on for one second.</p> <p>17 I'm just going to object to the form of the 18 question.</p> <p>19 Go ahead, sir.</p> <p>20 THE WITNESS: I'm sorry, could you --</p> <p>21 MR. COWNAN: You can go ahead and answer what 22 he is asking.</p> <p>23 THE WITNESS: Yeah, diversity is, in the 24 context of what he is talking about, is the differences 25 in people, and that encompasses many things.</p>
<p>1 MR. MULLANAX: Yes.</p> <p>2 MR. COWNAN: Chief Scott, do you understand 3 that?</p> <p>4 THE WITNESS: I do, yes.</p> <p>5 BY MR. MULLANAX:</p> <p>6 Q. Chef Scott, do you think that is an accurate 7 statement of what you said that night?</p> <p>8 A. I think it captures what was talked about.</p> <p>9 But I also think that the way it is written, there's 10 some inference in there because of the way it is 11 written. But I think in terms of the subject that were 12 talked about that I discussed, yes, that's correct.</p> <p>13 Q. Okay. On the last line of that first 14 highlighted paragraph on the last column, it says, 15 "He determines the diversity of experience, 16 diversity for race, diversity of sex and diversity of 17 culture in determining who he selects."</p> <p>18 Is that statement true?</p> <p>19 A. It, that statement is written, put in the 20 context that I used diversity for race, sex, culture in 21 determining who was selected, that is not true.</p> <p>22 Q. So you dispute what is stated here in the 23 minutes; is that right?</p> <p>24 A. I did talk about diversity. But if that 25 article is inferring or that summary of what I said is</p>	<p>Page 18</p> <p>1 BY MR. MULLANAX:</p> <p>2 Q. Okay. The next paragraph that is highlighted 3 says,</p> <p>4 "A Board of Director member asked the Chief if 5 a candidate gets skipped a second time, will they get 6 more information as to why they got skipped?"</p> <p>7 D&amp;O you see that portion there?</p> <p>8 A. Yes.</p> <p>9 Q. And then, is that -- has the department 10 provided those candidates that did get skipped, have 11 they provided those candidates any information as to why 12 they got skipped?</p> <p>13 MR. COWNAN: Go ahead. But I'm just going to 14 ask that you clarify what period of time you are talking 15 about.</p> <p>16 MR. MULLANAX: Let's say after the, the 2017, 17 after Chief Scott arrived, I think the first time 18 promotions at that point was in October of 2017.</p> <p>19 MR. COWNAN: So about the time that this 20 newsletter was created?</p> <p>21 MR. MULLANAX: Yes.</p> <p>22 MR. COWNAN: Chief Scott, if you understand 23 the question in that context.</p> <p>24 THE WITNESS: Yeah, I want to -- can you 25 repeat the question, Mr. Mullanax?</p>

POLICE CHIEF WILLIAM SCOTT VOLUME I  
Frederick (Ric) Schiff vs Greg SuhrApril 06, 2021  
21-24

<p>1 I want to make sure I understand your 2 question.</p> <p>3 BY MR. MULLANAX:</p> <p>4 Q. Yes, sir. I'm just asking if -- if those that 5 got skipped, you know, they, people who get skipped, I 6 guess, definitely want to know why, you know, why they 7 got skipped. And you stated in here that the -- those 8 people would get more information as to why they got 9 skipped.</p> <p>10 Since that time, has the department provided 11 information to those people that were skipped in the 12 promotional process as to why they were skipped?</p> <p>13 A. Well, again, I think that's a summary that is 14 taken out of context. I was asked at the time by Martin 15 Halloran, who was the president, if I would meet with 16 the members who had not been selected and I agreed to do 17 that and I did do that. And there were a host of 18 candidates that came to my office to ask what they could 19 do better and why they got skipped, and I answered that 20 as best that I could.</p> <p>21 But if you are asking if there was a specific 22 reason that I gave an individual why they got skipped, 23 no, that answer is "no."</p> <p>24 Q. Okay. When, and you, I know you met with some 25 of the plaintiffs in this case.</p>	<p>Page 21</p> <p>1 the candidates that did not get promoted that you met 2 with?</p> <p>3 A. No, I don't recall exactly. I can just tell 4 you it was many.</p> <p>5 Q. Okay. I want to ask you about the promotional 6 process and what your involvement in the promotional 7 process is.</p> <p>8 When the announcement is made that there's 9 going to be -- that they -- for the testing and things 10 like that, are you involved in that portion of it?</p> <p>11 A. I'm sorry, what, which portion? I'm sorry.</p> <p>12 Q. When they announced that the testing is going 13 to be coming out?</p> <p>14 A. No, I'm not.</p> <p>15 Q. When do you become involved in the promotional 16 process?</p> <p>17 A. Well, let me clarify. I am not involved in 18 posting the announcements. There is a discussion 19 between DHR and me in terms of the time of when that 20 announcement will be posted, but ultimately it's, that 21 part of the examination is -- is conducted by DHR.</p> <p>22 Q. Okay. And then, so the candidates, they have 23 to take a test; is that correct?</p> <p>24 A. Yes.</p> <p>25 Q. And is the test composed of an oral portion,</p>
<p>1 When you met with those who got skipped and 2 who requested a meeting with you, did you do any 3 preparation into looking at that candidate's background 4 before you met with them?</p> <p>5 A. No. Those, there was -- no. I did not.</p> <p>6 Q. Okay. And why not?</p> <p>7 A. Because that open door was meant to be an 8 opportunity for the candidate to come in and talk to me 9 about whatever they wanted to talk to me about; in fact, 10 I was doing the open door before this came up. Most of 11 the people that came to my office happened to come 12 around the time that promotions were either about to 13 happen or after they happened, but I was already doing 14 open door.</p> <p>15 So other than knowing who was coming in my 16 office to meet with me, I didn't do any prep work on the 17 people that came in. It was there for them to talk and 18 ask questions.</p> <p>19 Q. Did you make any notes or generate any memos 20 from these meetings with the candidates?</p> <p>21 A. No.</p> <p>22 Q. Okay. Now, I'll turn off the Share screen if 23 I can find it. Oh, Stop Share.</p> <p>24 Okay, is that better?</p> <p>25 Do you recall, Chief Scott, about how many of</p>	<p>Page 22</p> <p>1 as well as a written portion?</p> <p>2 A. Yes.</p> <p>3 Q. And then the candidates, I guess that make a 4 list can -- are invited to submit secondary criteria; is 5 that correct?</p> <p>6 A. That is correct.</p> <p>7 Q. Okay. And then once -- and does the list, the 8 eligible list, does it come from DHR?</p> <p>9 A. Yes, it does. I'm sorry, Peter.</p> <p>10 MR. COWNAN: If you know.</p> <p>11 THE WITNESS: Yes, as far as -- yes, it comes 12 from DHR.</p> <p>13 BY MR. MULLANAX:</p> <p>14 Q. Yes. And that is -- Peter reminded me to tell 15 you something I didn't tell you at the beginning.</p> <p>16 Chief Scott, if I ask you a question, I don't 17 ever want you to speculate on it. So if you don't know 18 the answer, it is perfectly acceptable to say you don't 19 know. So we are just here to find out what you know and 20 not what you -- I'm not asking for any speculation.</p> <p>21 So when the -- and the DHR, just for the 22 record, is the San Francisco Department of Human 23 Resources; is that right?</p> <p>24 A. Yes.</p> <p>25 Q. And then once the candidates submit their</p>

POLICE CHIEF WILLIAM SCOTT VOLUME I  
Frederick (Ric) Schiff vs Greg SuhrApril 06, 2021  
25-28

<p>Page 25</p> <p>1 secondary criteria, what happens in the process next?</p> <p>2 A. Once the secondary criteria is submitted, it</p> <p>3 is then reviewed by a panel consisting of deputy chiefs,</p> <p>4 the city attorney also sits in those meetings just for</p> <p>5 questions and, and to provide any answers to questions</p> <p>6 that might arise about the process. But the deputy</p> <p>7 chiefs and the assistant chiefs actually are the</p> <p>8 committee who review, individually review the secondary</p> <p>9 criteria.</p> <p>10 Q. Now, so they review all the secondary criteria</p> <p>11 submitted; is that right?</p> <p>12 A. That's correct.</p> <p>13 Q. And then they submit their recommendations to</p> <p>14 you?</p> <p>15 A. Correct.</p> <p>16 Q. And yesterday, I won't make it an exhibit</p> <p>17 here, but there was some forms that looked like kind of</p> <p>18 a spreadsheet that showed each member's, whether they</p> <p>19 recommended that person or not, that candidate or not;</p> <p>20 is that correct?</p> <p>21 Is that how you received it?</p> <p>22 A. In the form of a spreadsheet?</p> <p>23 Q. Yes, or a document that looks like a</p> <p>24 spreadsheet.</p> <p>25 A. It is more of a matrix, secondary criterias,</p>	<p>Page 27</p> <p>1 can someone like on the Police Commission or the mayor</p> <p>2 veto one of your selections?</p> <p>3 A. No, it has never happened since I have been</p> <p>4 here.</p> <p>5 MR. COWNAN: Yeah, I'm going to object to the</p> <p>6 point it asked for a legal conclusion. All right.</p> <p>7 BY MR. MULLANAX:</p> <p>8 Q. Okay. So when you are making the decisions to</p> <p>9 promote, you are essentially looking at the</p> <p>10 recommendations from the committee members, and then</p> <p>11 that spreadsheet you were talking about, the matrix; is</p> <p>12 that correct?</p> <p>13 A. Can you repeat your question? I want to make</p> <p>14 sure I heard you correctly.</p> <p>15 Q. Yes, sir. When you make your promotional</p> <p>16 decisions, the information you are relying on, are the</p> <p>17 recommendations from the committee and that matrix</p> <p>18 spreadsheet we were talking about?</p> <p>19 A. Correct.</p> <p>20 Q. Anything else?</p> <p>21 A. The recommendations are individual, so they</p> <p>22 don't discuss the candidates as a group, they</p> <p>23 individually evaluate each candidate and they make a</p> <p>24 recommendation. So that's on their recommendations is</p> <p>25 actually separate from the matrix.</p>
<p>Page 26</p> <p>1 all the different secondary criterias basically had</p> <p>2 the -- I'd say a check box with X's if that particular</p> <p>3 candidate had that particular criteria in their -- in</p> <p>4 their history or in their personnel file.</p> <p>5 Q. Okay.</p> <p>6 A. And then with the recommendation by the person</p> <p>7 who reviewed that candidate's package.</p> <p>8 Q. So what exactly do you receive from the</p> <p>9 committee when they are finished doing their work?</p> <p>10 A. That document that you just referred.</p> <p>11 Q. Okay. But you don't actually get all the</p> <p>12 secondary criteria, all the things that were submitted,</p> <p>13 along with the -- to support their secondary criteria</p> <p>14 claims?</p> <p>15 A. No.</p> <p>16 Q. Okay. So, and when you -- do you recall you</p> <p>17 started in January of 2017, and in October of 2017, I</p> <p>18 think was the -- a round of promotions. You made those</p> <p>19 promotions, did you not?</p> <p>20 You were involved in that process?</p> <p>21 A. October, 2017, yes.</p> <p>22 Q. And do you have the final word on who gets</p> <p>23 promoted?</p> <p>24 A. Yes.</p> <p>25 Q. Does anyone else have any say in it or any --</p>	<p>Page 28</p> <p>1 Q. Right. And they, some of them I have seen</p> <p>2 some of the spreadsheets are, or the recommendation</p> <p>3 sheets, and there's a place where they make comments,</p> <p>4 and a lot of times there are comments made and sometimes</p> <p>5 there are no comments made; is that true?</p> <p>6 A. That's generally true, yes.</p> <p>7 Q. So when you guys are, I mean, when you were</p> <p>8 doing the first or the round in October of 2017, was it</p> <p>9 difficult because you hadn't been in the department very</p> <p>10 long at that point?</p> <p>11 A. Was what difficult?</p> <p>12 Q. Deciding who to promote, because you were, you</p> <p>13 were still fairly new at the time, or maybe been there</p> <p>14 ten months, is that difficult to make promotional</p> <p>15 decisions when you haven't been with the department for</p> <p>16 a long time?</p> <p>17 A. Well, I --</p> <p>18 Q. That's not meant to be a criticism, I'm just</p> <p>19 asking.</p> <p>20 A. No, no. Yeah, but it appeared to be two</p> <p>21 questions there.</p> <p>22 First question: Is it difficult? Yes, it is</p> <p>23 difficult.</p> <p>24 Q. Okay.</p> <p>25 A. The second question: Is it difficult when you</p>

POLICE CHIEF WILLIAM SCOTT VOLUME I  
Frederick (Ric) Schiff vs Greg SuhrApril 06, 2021  
29-32

<p style="text-align: right;">Page 29</p> <p>1 are new to an organization? Yes, that is difficult as 2 well. 3 Q. When you were considering who to promote, did 4 you ever make any phone calls or talk to anybody about 5 any of the candidates? 6 MR. COWNAN: Which time are you talking about, 7 Greg? 8 MR. MULLANAX: In October of 2017, or for that 9 promotional round, whenever that could be. 10 THE WITNESS: Yeah, I didn't make phone calls 11 who to select, no, but I did talk to the assistant chief 12 about the candidates and what they knew about the 13 candidates on occasion during that process, or actually 14 after the secondary criteria was submitted. 15 Q. Right. That's the time period, I should have 16 been more clear, after that secondary time period was 17 submitted you got the recommendations from the committee 18 member and all that, did you ever discuss with anybody 19 else in the department about any of the candidates? 20 A. Other than the assistant chief and mainly the 21 Chief of Staff, who was the one that basically 22 coordinated the -- that process, and he was the one that 23 actually gave me the matrix and the recommendations. 24 Q. And who was your Chief of Staff in October of 25 2017?</p>	<p style="text-align: right;">Page 31</p> <p>1 is a letter from the San Francisco Police Officers 2 Association, dated November 19th of 2018. 3 Can you see this on your screen, Chief Scott? 4 A. Yes. I can see part of the document, yes. 5 Q. Okay, I'm going to scroll down. 6 Do you recall receiving this letter? 7 MR. COWNAN: Chief Scott, take a look, take a 8 second to read through it. 9 MR. MULLANAX: Yeah, if you want me to scroll, 10 let me know and I'll scroll. 11 THE WITNESS: Okay, I read down to the bottom 12 of that page. 13 MR. MULLANAX: Okay. 14 THE WITNESS: Okay. I have read it. 15 BY MR. MULLANAX: 16 Q. Do you recall seeing this letter before? 17 A. I'm familiar with it, yes. I don't remember 18 specifically receiving the letter or when, but I do 19 remember -- I can remember the issue. 20 Q. Okay. And it is signed by Rick, and I'm not 21 sure if I'm pronouncing his name correctly, but 22 Andreotti. And for the record that is 23 A-N-D-R-E-O-T-T-I, who is the POA vice-president. He 24 asked in this letter, at the last line, asked to meet 25 with you to discuss the concerns raised in this letter.</p>
<p style="text-align: right;">Page 30</p> <p>1 A. That was Assistant Chief Hector Sainez. 2 Q. Do you know what like work like pay is? 3 A. Yes. 4 Q. What is like work like pay? 5 MR. COWNAN: Object on relevance grounds, but 6 you can answer, sir. 7 THE WITNESS: Like work like pay is a process 8 when an employee is doing a job higher than the rank in 9 their current rank, they get paid for doing that job if 10 they do it for a certain amount of days, which I believe 11 is 28. I'm not for sure about the days. But they get 12 paid at the rank of the work that they are doing. 13 BY MR. MULLANAX: 14 Q. Well, do you know if like work like pay, at 15 least since you have been Chief, has been used as a way 16 to avoid promoting somebody? 17 MR. COWNAN: Same objections. Go ahead, sir. 18 THE WITNESS: To avoid promoting? No. 19 MR. MULLANAX: Okay. So I think we are on 20 Exhibit 2. I'm just going to pull up the document real 21 quick. 22 (Plaintiff's Exhibit 2 marked for 23 identification) 24 BY MR. MULLANAX: 25 Q. Okay. I have pulled up Exhibit 2 here, which</p>	<p style="text-align: right;">Page 32</p> <p>1 Did you ever have a meeting with Mr. Andreotti 2 or anyone else from the POA regarding the concerns 3 raised in this letter? 4 A. I don't remember whether I met with Rick 5 Andreotti or not, but I did meet with the POA regarding 6 Marty Halloran many times regarding this issue. 7 MR. COWNAN: I apologize for doing this. The 8 answer to not the last question, but the question 9 before, Chief Scott saying that he remembers the issue, 10 you guys were speaking over each other, so I wanted to 11 make sure that the record was clear. 12 MR. MULLANAX: Okay. 13 MR. COWNAN: You can go ahead. 14 BY MR. MULLANAX: 15 Q. Okay. One of the things they complained about 16 in this letter was the lack of transparency in the 17 promotional process. Did you ever discuss that issue 18 with the POA or members of the POA? 19 A. If you -- if you are referring to the Rule of 20 Ten, yes. 21 Q. And what kind of discussions did you have 22 regarding the Rule of Ten? 23 A. Just an explanation of the Rule of Ten and 24 what it meant. 25 Q. What is the Rule of Ten?</p>

POLICE CHIEF WILLIAM SCOTT VOLUME I  
Frederick (Ric) Schiff vs Greg SuhrApril 06, 2021  
33-36

<p style="text-align: right;">Page 33</p> <p>1 A. The Rule of Ten is a rule of our civil service 2 promotional list. And basically in essence what it is, 3 is the candidate pool is nine above the number of 4 vacancies. So, in other words, if there is one vacancy, 5 you can go nine above that first score up to a score of 6 ten. So the Rule of Ten is you can -- you can select 7 from qualified candidates from ten scores.</p> <p>8 Q. Okay. So if you select -- so it's nine above 9 of number of vacancies. So if you have ten vacancies, 10 you would have 19; is that correct?</p> <p>11 A. I'm sorry? Would you read that again? If you 12 have ten vacancies?</p> <p>13 Q. Yes. You said the Rule of Ten gives you nine, 14 nine ranks or nine -- you have nine. If you have ten, 15 you have nine more. Well, start over.</p> <p>16 Explain to me again what you mean by the Rule 17 of Ten. You said it is nine above the number of 18 vacancies that are open?</p> <p>19 A. Yeah. So the simplest way to understand it, 20 that's why I use one. If there is one vacancy and there 21 is one person in rank one, the first, the highest score.</p> <p>22 Q. Right.</p> <p>23 A. You can go nine ranks above that or nine 24 scores above that, so that's ten scores. Rule of Ten. 25 That's why I used one. I think it is easier to</p>	<p style="text-align: right;">Page 35</p> <p>1 not necessarily. It really depends on the number of 2 vacancies as compared to the scores.</p> <p>3 BY MR. MULLANAX:</p> <p>4 Q. So if you have -- and I apologize for, you may 5 think these are dumb questions, and they probably are, 6 but I'm just trying to get the handle on it.</p> <p>7 If you have ten vacancies and you can go down 8 to rank 19, do you have to pick all -- and you are going 9 to fill those vacancies, do you have to pick them all 10 from the rank one to 19?</p> <p>11 MR. COWNAN: I'm going to object to the form 12 and to the extent it asked him to speculate. But, sir, 13 if you understand the question and you know the answer, 14 you can answer.</p> <p>15 THE WITNESS: Let me hear the question again, 16 and I think I understand it, but let me hear the 17 question again.</p> <p>18 BY MR. MULLANAX:</p> <p>19 Q. Yes, sir. If you have ten vacancies, that 20 would let you appoint them, fill the vacancies going 21 down to rank number 19 under the Rule of Ten; is that 22 correct?</p> <p>23 A. That is correct.</p> <p>24 Q. And so if you were going to fill those ten 25 vacancies, would they all have to come from the one to</p>
<p style="text-align: right;">Page 34</p> <p>1 comprehend when you break it down to one plus the nine 2 scores above, so...</p> <p>3 Q. But nine scores above, when you are talking 4 about if there is one vacancy, and you are you talking 5 about, I think what confuses me is the nine scores 6 above. Are you talking about nine scores below, you can 7 go down the list nine scores?</p> <p>8 A. Or below, yes. Nine scores below the number 9 of vacancies. So one, one vacancy, one score, you can 10 go nine scores below that. I said above, but actually 11 it is below. Nine lower scores if that's -- I think 12 that's a simpler way to put it.</p> <p>13 Q. Okay. So if you had ten, you could go down to 14 19; is that right?</p> <p>15 A. Correct.</p> <p>16 Q. So if you pick, if you have ten vacancies and 17 you could go down to rank 19, I guess, if you pick the 18 first one at rank 19, does that give you another drop 19 down on the rank listing to pick another candidate?</p> <p>20 MR. COWNAN: I'll object to the form, but you 21 can answer if you understand the question and you know 22 the answer, sir.</p> <p>23 THE WITNESS: Yeah, but my understanding is it 24 depends on the number of vacancies. And so it -- it 25 depends on the number of vacancies. So it could, but</p>	<p style="text-align: right;">Page 36</p> <p>1 19 rankings?</p> <p>2 A. They would come from within that group of 3 candidates.</p> <p>4 Q. Okay.</p> <p>5 A. Yes.</p> <p>6 Q. So if you picked someone low, like let's say 7 you picked number 19, that doesn't drop the list down 8 further?</p> <p>9 MR. COWNAN: Same objections. You can answer 10 if you understand.</p> <p>11 THE WITNESS: It could. No, it doesn't drop 12 the list down further for that particular portion of the 13 process. So, in other words, whatever -- when the 14 candidates are notified to submit their secondary 15 criteria, that form is already taken into consideration.</p> <p>16 So when the promotions are made from -- and 17 the way we've done it since I have been here, we try to 18 promote as many vacancies as we can from that group of 19 candidates and usually we are able to get, fill all the 20 vacancies at the time that the secondary criteria went 21 out.</p> <p>22 Now, if somebody resigns, retires or leaves 23 the department after the secondary criteria went out, we 24 don't go back and add more names to the list until the 25 next round of promotions and the next secondary criteria</p>

POLICE CHIEF WILLIAM SCOTT VOLUME I  
Frederick (Ric) Schiff vs Greg SuhrApril 06, 2021  
37-40

<p>1 goes out. I believe that answers your question.</p> <p>2 Q. Okay. And what is the -- what is the 3 justification for the Rule of Ten? I mean, why is it 4 employed?</p> <p>5 MR. COWNAN: Object to the form. May call for 6 speculation. But if you understand the question and 7 know the answer, you can answer it, sir.</p> <p>8 THE WITNESS: Well, I wasn't here when that 9 rule of the list was implemented, but my understanding 10 is it just creates a bigger candidate pool to pull from.</p> <p>11 BY MR. MULLANAX:</p> <p>12 Q. Do you think that's a better system than 13 filling of vacancies in rank order?</p> <p>14 MR. COWNAN: Object to the form, and go ahead, 15 sir.</p> <p>16 THE WITNESS: Yeah, when you say, "better 17 system," I think it has some benefits to have a larger 18 candidate pool, yes. Better? That's a matter of 19 perspective. It's the rule of the list. It does give 20 us a bigger candidate pool and that can have benefits.</p> <p>21 BY MR. MULLANAX:</p> <p>22 Q. Now, the testing process, the testing process 23 is designed to replicate actual issues that would arise 24 in employment; is that correct?</p> <p>25 A. I'm sorry? I didn't understand your question,</p>	<p>Page 37</p> <p>1 Aside from -- I understand the secondary 2 criteria, and we can get more into that in the next 3 deposition, but isn't it true that the testing process 4 is designed to find out who could probably handle the 5 job better because it simulates what they are going to 6 be experiencing?</p> <p>7 A. I wouldn't say that is an absolute true 8 statement. The testing process is but one part of the 9 process. It -- you know, somebody that makes 100 or on 10 aces the test doesn't necessarily mean that they are 11 going to do a great job at that job that they are 12 applying for. It's a part of the process to qualify for 13 promotion, but other things are considered, and 14 appropriate reason, other things should be considered.</p> <p>15 Q. And how much do you think, if you can answer 16 this question, how much do you think the testing 17 results -- what percentage of the decision should be 18 based on testing results versus the secondary criteria 19 and the other criteria?</p> <p>20 MR. COWNAN: Object to the form of the 21 question, it may call for speculation, but you can 22 answer to the extent that you know.</p> <p>23 THE WITNESS: Yeah, there is not a percentage, 24 the way our process is set up, there is not a percentage 25 of, you know, your written test counts for this percent,</p>
<p>1 I'm sorry.</p> <p>2 Q. Well, what I'm trying to figure out is, you 3 have the actual testing process, the written portion and 4 the oral portion; is that correct?</p> <p>5 A. That is correct.</p> <p>6 Q. And so when the candidates are later ranked, 7 it is based on the score that they obtained on those 8 testing; is that right?</p> <p>9 A. As far as the score that they are assigned, 10 yes, that's correct.</p> <p>11 Q. And is the testing portion of the promotional 12 process, is that an important part of the process?</p> <p>13 MR. COWNAN: Objection. Go ahead.</p> <p>14 THE WITNESS: Yeah, it is important. That's 15 the primary criteria to be eligible for promotion.</p> <p>16 I mean, you have to pass the test, is what I'm 17 saying, in order to be considered for promotion.</p> <p>18 BY MR. MULLANAX:</p> <p>19 Q. Right. And then, but there's a concern out 20 there that sometimes if you don't follow closely with 21 the rank listing that there may be people who don't have 22 as much experience or things like that to be able to do 23 their jobs correctly. And if it is merit based, it 24 seems like the test would be an objective way to 25 evaluate merit.</p>	<p>Page 38</p> <p>1 your interviews count for this percent, if you do an 2 assessment, it, every -- all the factors are considered, 3 and there is not, it works like, I believe, if I 4 understand your question --</p> <p>5 MR. MULLANAX: Yes, sir.</p> <p>6 THE WITNESS: -- you asked is there a 7 percentage or should there be a percentage, there is 8 not. I don't know that there should be. I think you -- 9 the organization should consider all the criteria that 10 are there.</p> <p>11 BY MR. MULLANAX:</p> <p>12 Q. When you are looking at the matrix and the 13 information that you have in making promotional 14 decisions, how much do you rely on the ranking of the 15 candidates?</p> <p>16 A. I don't understand your question. If you can 17 repeat it.</p> <p>18 Q. Yes, sir. How much, when you are making the 19 promotional decisions and you are looking at the 20 information in front of you, how much do you rely on the 21 testing aspect versus the secondary criteria?</p> <p>22 A. Well, the testing process, I mean, the actual 23 score of the candidate's score is actually what puts 24 them in the position to be considered. So, yes, that's 25 a consideration. If -- if you are comparing the person</p>

POLICE CHIEF WILLIAM SCOTT VOLUME I  
Frederick (Ric) Schiff vs Greg SuhrApril 06, 2021  
41-44

Page 41	Page 43
1 who scored number 1 versus the person who scored number 2 2 or the person who scored number 3, and then there are 3 scores that have multiple candidates in the same score. 4 So it is not a process that that is the only 5 criteria, and I don't think that that is the best way to 6 do business if the score is the only criteria, because 7 other things have to be factored in and should be 8 factored in, in my opinion. 9 Q. Okay. Did you ever use race or gender in 10 making any of these decisions? Promotional decisions? 11 A. No, not as a criteria for selection, no. 12 MR. MULLANAX: Okay. Could we take -- we 13 haven't been going for quite an hour. Can we take a 14 five-minute break? 15 MR. COWNAN: Yeah, if we can, let's take a 16 ten-minute break. 17 MR. MULLANAX: Okay. 18 MR. COWNAN: And then we can come back at 11. 19 MR. MULLANAX: All right. I'm losing my 20 screen here. So we'll take a ten-minute break, I guess 21 come back at 11:05? 22 MR. COWNAN: Sure. 23 MR. MULLANAX: That will make it easier. 24 MR. COWNAN: Sure. 25 MR. MULLANAX: Okay. Thank you.	1 this Department Bulletin? 2 MR. COWNAN: Chief Scott, if you need to, we 3 are talking about a 2018 document, so if you need to 4 take a few minutes to read through it, please do so. 5 THE WITNESS: Thank you. I would like to read 6 through it. 7 MR. COWNAN: Okay. 8 THE WITNESS: If you can -- 9 BY MR. MULLANAX: 10 Q. Sure. Tell me when to scroll and I'll be 11 happy to. 12 Do you want me to make it bigger? 13 A. No, I can see it. Thank you. 14 Q. Okay. 15 A. Okay. I'm done with -- finished with that 16 page. 17 Q. Okay. 18 A. I'm finished with that page. 19 Q. Okay. 20 A. I'm finished with that page. 21 Q. Okay. And the last page, page 4. Okay. 22 A. Okay. I'm finished with that page. 23 Q. Okay. I'd like to go back to page 3, and see 24 the question towards the top where it says, "Why are 25 there three different exam components?" Do you see
Page 42	Page 44
1 (Recess) 2 BY MR. MULLANAX: 3 Q. All right we are back on the record. 4 And Chief Scott, do you realize that you are 5 still under oath even though we had a break? 6 A. Yes. 7 MR. MULLANAX: Okay. Thank you. Before we 8 took a break, I asked you a little bit about the testing 9 process and so I want to ask you a little bit more. 10 I'm going to show you a document, Exhibit 3. 11 (Plaintiff's Exhibit 3 marked for 12 identification) 13 BY MR. MULLANAX: 14 Q. Can you see that, Chief Scott? 15 A. Yes. 16 Q. And do you recognize this document? 17 A. I recognize it, yes, it's the bulletin. If I 18 could see the rest of it, but, yeah, I do recognize it. 19 Q. Sure. And I'll -- we'll go through it here in 20 a second, or parts of it. But I'll show you at the 21 bottom on page 4, is that your signature there? 22 A. Yes. 23 Q. For the record, Exhibit 3 consists of pages 24 RS1283 through RS1286. And I'm going to go back up to 25 the first page. Chief, do you remember why you issued	1 that? 2 A. Yes. 3 Q. Well, first of all, regarding the whole 4 document, did you write this memo? 5 A. No, I didn't write it, I approved it. 6 Q. You approved it? Okay. And the first part of 7 the answer says, "The exam is meant to simulate the job 8 as much as possible." Is that true? 9 A. Yes. 10 Q. Ask then you go on to say, "The more of the 11 job you test, the more you can accurately predict the 12 future success." Do you believe that to be true? 13 A. I believe that's a good indicator, yes. 14 Q. And then, "Exam components may include job 15 simulations, work samples, and other measures of 16 technical knowledge." Do you -- is that true? 17 A. Yes. And let me clarify your last question. 18 When I said I believe it's a good indicator, I 19 mean being in this business for 30 years, some people 20 get promoted and they perform superbly and others don't, 21 so it's not a perfect science. So I just want to 22 clarify that answer. 23 Q. Okay. It's probably kind of like the bar exam 24 a little bit? 25 A. Hmm.

POLICE CHIEF WILLIAM SCOTT VOLUME I  
Frederick (Ric) Schiff vs Greg SuhrApril 06, 2021  
45-48

Page 45	Page 47
<p>1 Q. And then it says, towards the bottom of page 2 3, it has a paragraph there, "How are tests developed?" 3 Do you see that?</p> <p>4 A. Toward the bottom? Yes.</p> <p>5 Q. It says, the answer is, "DHR's public safety 6 team first conducts a detailed job analysis."</p> <p>7 What is the DHR's public safety team?</p> <p>8 A. They have specific individuals that worked 9 with the public safety department on examination.</p> <p>10 Q. Are members of your department on that team?</p> <p>11 A. They are not on DHR's public safety team, no.</p> <p>12 Q. Okay. Do they consult with the police 13 department?</p> <p>14 A. They do, yes.</p> <p>15 Q. Okay. Does the police department confer with 16 them when they conduct a detailed job analysis?</p> <p>17 A. I'm sorry. Repeat your question, please.</p> <p>18 Q. It says, "The public safety team first 19 conducts a detailed job analysis." Do they conduct that 20 job analysis with the police department?</p> <p>21 A. They consult with members of the police 22 department, yes.</p> <p>23 Q. Okay. And then based on -- if we go on to 24 page 4, that paragraph goes on to say that, "Using the 25 job analysis result, the public safety team works with</p>	<p>1 A. Uh-huh, yes.</p> <p>2 Q. What contractors does the SFPD use in 3 developing the test components?</p> <p>4 A. You know, I don't -- actually, it is DHR who 5 uses the contractor. And I don't remember the name of 6 the contractor, but I do know they do consult or hire a 7 contractor to work with developing -- developing tests, 8 I don't remember the name off the top of my head, but I 9 am familiar with that process.</p> <p>10 Q. Okay. And then just, and so the DHR, they are 11 the ones that actually develop the test; is that 12 correct?</p> <p>13 A. That is correct. Well, they do it in 14 conjunction with the contractors and the public safety 15 team and the SMEs, but the DHR public safety team is 16 actually responsible for that process.</p> <p>17 Q. Now, are these contractors like that test 18 specialist, or like specialists giving tests; is that 19 what those contractors are?</p> <p>20 A. Well, they are consultants. I don't know what 21 all they do, but that is part of what they do. I can't 22 say if that's the only thing that they consult on.</p> <p>23 Q. Okay. And then the next, if we go down a 24 little bit, it says, "Why do SMEs have to participate in 25 job analysis?"</p>
<p>1 the Test Development Committee to create test 2 components"? You saw that note?</p> <p>3 MR. COWNAN: Can you scroll down to page 4?</p> <p>4 MR. MULLANAX: Oh, I'm sorry, you are right.</p> <p>5 Sorry, Peter.</p> <p>6 Sorry, Chief. There you go.</p> <p>7 THE WITNESS: Yes, I can see that.</p> <p>8 BY MR. MULLANAX:</p> <p>9 Q. Okay. Who was the -- what is the Test 10 Development Committee?</p> <p>11 A. This is in reference to the members of the 12 department who worked for -- who are selected to work 13 with DHR on developing the test, it's not a -- it's a 14 variety of ranks, at least it has been since I have been 15 here. But these are folks that are selected to work 16 with DHR, and that is headed by the Deputy Chief of the 17 Administration Bureau, or has been since I have been 18 here.</p> <p>19 Q. Is that, the SME, you used that acronym. Is 20 that Subject Matter Expert?</p> <p>21 A. Yes, the acronym does mean Subject Matter 22 Expert.</p> <p>23 Q. And so it says, "The DHR public safety team 24 works with the SMEs within SFPD and contractors to 25 develop test components." Do you see that?</p>	<p>1 And you state here, "The job analysis is the 2 basis for the test. If the job analysis does not 3 reflect the job, the test will not either." Do you 4 still believe that to be correct?</p> <p>5 A. I believe it is accurate, yes.</p> <p>6 Q. And then at the -- you later go on to say, 7 To develop a high quality test, it is 8 important to involve a wide variety of experts. At 9 least 60 percent of the rank participates in the job 10 analysis." What do you mean by that last sentence, the 11 60 percent of the rank?</p> <p>12 A. The rank being tested for. For instance, if 13 the test is for sergeant examination, then 60 percent of 14 the sergeants rank participates in that analysis.</p> <p>15 Q. Okay. Do they have meetings about this or how 16 does that conduct -- how do they participate?</p> <p>17 A. Yeah, they -- my understanding is that they do 18 have meetings.</p> <p>19 MR. MULLANAX: Okay. That was Exhibit No. 3.</p> <p>20 Let me pull up -- okay. I want to show you Exhibit 4.</p> <p>21 (Plaintiff's Exhibit 4 marked for 22 identification)</p> <p>23 BY MR. MULLANAX:</p> <p>24 Q. And I'll ask you, this is a Collaborative 25 Reform Initiative, An Assessment of the San Francisco</p>
<p style="text-align: right;">POLICE CHIEF WILLIAM SCOTT VOLUME I Frederick (Ric) Schiff vs Greg Suhr</p>	<p style="text-align: right;">April 06, 2021</p>

POLICE CHIEF WILLIAM SCOTT VOLUME I  
Frederick (Ric) Schiff vs Greg SuhrApril 06, 2021  
53-56

Page 53	Page 55
<p>1 candidates?</p> <p>2 A. No. Actually, no, I don't.</p> <p>3 Well, let me clarify. I can request a</p> <p>4 performance evaluation if I need to look at one, but it</p> <p>5 is not a part of one of the secondary criteria, if you</p> <p>6 look at the criteria performance evaluations, it is not</p> <p>7 part of it.</p> <p>8 Q. The discipline isn't? Oh, I'm sorry, the</p> <p>9 performance evaluations aren't?</p> <p>10 A. That's correct.</p> <p>11 MR. MULLANAX: And, Peter, were you going to</p> <p>12 make an objection to the last question?</p> <p>13 MR. COWNAN: I'm just going to object to the</p> <p>14 extent it misstates his testimony as to, or vague and</p> <p>15 ambiguous as to secondary criteria that Chief Scott,</p> <p>16 that specific thing. But go ahead, Greg, it's fine.</p> <p>17 BY MR. MULLANAX:</p> <p>18 Q. Okay. The next sentence says, "Although the</p> <p>19 overall data show a level of diversity among the ranks,</p> <p>20 various sources raised concerns about the transparency</p> <p>21 of the promotion process."</p> <p>22 So, again, I understand this is before your</p> <p>23 time with the San Francisco Police Department. But have</p> <p>24 you heard similar complaints now about the lack of</p> <p>25 transparency in the promotional process, other than from</p>	<p>1 those who were not promoted and people below them were</p> <p>2 promoted. For example, there has been complaints that a</p> <p>3 former Field Training Officer is now being supervised by</p> <p>4 a former student, so to speak. Based on the promotion,</p> <p>5 do you think that's a concern, a valid concern of the</p> <p>6 police officers in the promotional process?</p> <p>7 MR. COWNAN: Same objection. I also would</p> <p>8 like to interpose the objection of relevance. But you</p> <p>9 can answer, sir.</p> <p>10 THE WITNESS: Yeah, just to clarify your</p> <p>11 question, your question is do I think that's a valid</p> <p>12 concern?</p> <p>13 MR. MULLANAX: Yes.</p> <p>14 THE WITNESS: No, I don't.</p> <p>15 BY MR. MULLANAX:</p> <p>16 Q. Why is that?</p> <p>17 A. The same --</p> <p>18 MR. COWNAN: Go ahead, sir.</p> <p>19 THE WITNESS: That's not a criteria. There is</p> <p>20 no right -- there is no entitlement based on your</p> <p>21 standing or position to guarantee a promotion. In other</p> <p>22 words, if you are an FTO and you trained an officer,</p> <p>23 there is no entitlement that you get promoted before the</p> <p>24 officer that you trained. I mean, I don't think that's</p> <p>25 a valid concern.</p>
<p>1 the POA?</p> <p>2 A. I'm going to answer that question with the</p> <p>3 best I can. I have heard people reference lack of</p> <p>4 transparency to people, individuals wanting an</p> <p>5 understanding of why they were not selected.</p> <p>6 I don't believe there is a lack of</p> <p>7 transparency, or even people saying that there is a lack</p> <p>8 of transparency about what the process is. I think what</p> <p>9 I have been told and heard from people is the</p> <p>10 frustration about lack of transparency in people not</p> <p>11 understanding why they weren't selected, if somebody,</p> <p>12 particularly if somebody in a lower score than them was</p> <p>13 selected in front of them.</p> <p>14 BY MR. MULLANAX:</p> <p>15 Q. Do you understand the concern that sometimes</p> <p>16 people with a lower score are promoted and they may</p> <p>17 later be supervising their former Field Training</p> <p>18 Officer, for example?</p> <p>19 MR. COWNAN: I object to the form.</p> <p>20 You can answer if you understand the question,</p> <p>21 sir.</p> <p>22 THE WITNESS: No, I need clarification, if you</p> <p>23 don't mind, before I answer the question.</p> <p>24 BY MR. MULLANAX:</p> <p>25 Q. Sometimes some complaints have been raised by</p>	<p>1 BY MR. MULLANAX:</p> <p>2 Q. But does it factor into the decision,</p> <p>3 especially if the former Field Training Officer was</p> <p>4 ranked higher than the person promoted?</p> <p>5 A. No, not in that way. Not in the way you are</p> <p>6 asking, no.</p> <p>7 MR. COWNAN: I'd like to interpose the same</p> <p>8 objection as the last time.</p> <p>9 BY MR. MULLANAX:</p> <p>10 Q. Okay. I have heard you say that sometimes in</p> <p>11 the promotional process they use intangibles in making a</p> <p>12 decision. What do you mean by the intangibles?</p> <p>13 MR. COWNAN: I'm going to object to the extent</p> <p>14 it assumes facts, but go ahead, Chief.</p> <p>15 BY MR. MULLANAX:</p> <p>16 Q. Let me start over just to lay a foundation.</p> <p>17 Have you ever said that you use intangibles in making</p> <p>18 promotional decisions?</p> <p>19 A. Yes, I have said something to that effect,</p> <p>20 yes.</p> <p>21 Q. Okay. And what do you mean by that?</p> <p>22 A. Well, intangibles are things like leadership,</p> <p>23 you know, a person's leadership ability or their</p> <p>24 reputation of leadership, of things like responding</p> <p>25 appropriately in tense and crisis situations and things</p>

POLICE CHIEF WILLIAM SCOTT VOLUME I  
Frederick (Ric) Schiff vs Greg Suhr

April 06, 2021  
57-60

Page 57	Page 59
<p>1 like that. Sometimes that comes through by way of 2 documentation accommodations and the like. But there 3 are intangibles, you know. Not every -- no two people 4 are the same.</p> <p>5 Q. So when you are making your promotional 6 decisions, how do you know if a certain candidate has 7 good leadership potential or is a good leader?</p> <p>8 A. Well, like sometimes it comes by way of 9 commendations, or a person has commendations. And 10 sometimes in some of the comments that are written by 11 the evaluating deputy chief and assistant chief, they 12 will make those type of comments on occasion.</p> <p>13 Everybody has a reputation, good or bad, and 14 those reputations in an organization like this are often 15 not secret, I mean, it's people have reputations of 16 being a good worker, a good employee or a bad worker, a 17 bad employee, and so those things tend to make their way 18 sometimes on a documentation by way of accommodations or 19 other documentations. Discipline, for instance.</p> <p>20 Q. So when, during the October, 2017, promotional 21 round, were you privy to any information documenting 22 leadership or reputation around the department of 23 individual candidates?</p> <p>24 A. Well, privy to, far as what is on the 25 secondary criteria, commendations, those type of things.</p>	<p>1 department and the goals of the department? Yes. And 2 oftentimes those two are brought up in the same 3 conversation.</p> <p>4 Q. What is -- what do you mean by cultural 5 competency?</p> <p>6 A. Being competent about cultures, different 7 cultures, either your own or somebody else's.</p> <p>8 Q. Are you talking about being familiar with 9 other cultures? Or I don't understand exactly what you 10 mean.</p> <p>11 A. Cultural competency, I'll just summarize what 12 it means to me, anyway. For instance, we have a large 13 Chinese population, the city is 33 percent Asian 14 American or Chinese, and the culture of Chinese people 15 with Chinese heritage, there are certain things 16 culturally that if you have taken the time to learn or 17 you are familiar with the culture that you may be 18 familiar with, as opposed to somebody who had not taken 19 the time to learn and may not be familiar with, like 20 taking your shoes off when you enter a person's house 21 and things like that.</p> <p>22 There is a level of knowledge and competency 23 that is good for our city and good for our department in 24 terms of just how we deliver services and how we relate 25 to the people that we are sworn to protect and serve.</p>
<p>Page 58</p> <p>1 if somebody is actually taken training, for instance, a 2 sergeant taking SLI to show they have an interest in 3 developing themselves as leaders I mean, those things 4 are relevant as well.</p> <p>5 So, yeah, I mean, it is also in terms of 6 intangibles, you asked the question about coming into a 7 department and not -- and being new, and it is difficult 8 because you don't know the players, but you do hear 9 things. I read captain's comps, I read, medal of valor 10 process, you know, where I get to hear about acts of 11 valor and acts of courageous leadership and things like 12 that, and those things are mentioned in the secondary 13 criteria.</p> <p>14 But those are documented, but those aren't 15 tangibles that lead to that type of performance.</p> <p>16 Q. And have you used the term cultural 17 competencies in making, when referring to the 18 promotional process?</p> <p>19 A. Clarify your question, please.</p> <p>20 Q. I think you've used, but I want to ask you, 21 have you used the term cultural competency or cultural 22 competencies when discussing the promotional process?</p> <p>23 A. Cultural competency as a selection criteria?</p> <p>24 No. Have I used competency and cultural diversity and 25 terms like that when talking about the needs of the</p>	<p>Page 60</p> <p>1 Q. Okay. And during the promotional process, do 2 you know if for lack, let's say there is a lieutenant 3 who wants a sergeant to be promoted or wants to give him 4 a good word. Do things like that happen in the 5 promotional process?</p> <p>6 A. Are you asking if I use those type of things 7 to make selections? You've got to clarify your question 8 for me.</p> <p>9 Q. Well, first of all, I guess the question is 10 does it happen, let's say you have a sergeant and there 11 is someone that the sergeant is supervising wants to 12 become a sergeant and is in the middle of the process 13 and he wants to call somebody to give, say, you know, she 14 is a good candidate, put a good word in for her or 15 something like that. Does that ever happen in the 16 department?</p> <p>17 A. I can't say that it doesn't happen. I'm 18 not -- I'm not privy to those calls.</p> <p>19 Q. Have you received any phone calls like that 20 during the process?</p> <p>21 A. Of individuals saying this person is a good 22 candidate?</p> <p>23 Q. Yes.</p> <p>24 A. I have received that type of information, yes.</p> <p>25 Q. Does that play a role in your decision-making</p>

POLICE CHIEF WILLIAM SCOTT VOLUME I  
Frederick (Ric) Schiff vs Greg SuhrApril 06, 2021  
61-64

<p>1 process?</p> <p>2 A. No, it actually doesn't, because I really have</p> <p>3 talked publicly about the promotion process not being a</p> <p>4 political process. You know, people from the community,</p> <p>5 elected officials or anything like that trying to</p> <p>6 influence that process I don't think is a good thing for</p> <p>7 this department.</p> <p>8 So, no, I don't use that, and I discourage</p> <p>9 people from trying to insert themselves in the process</p> <p>10 that way.</p> <p>11 MR. MULLANAX: Okay. I think we are almost</p> <p>12 finished with this portion, but can we have maybe a</p> <p>13 ten-minute break and come back and we may be close to</p> <p>14 being finished, or finished?</p> <p>15 MR. COWNAN: Yeah, if we can, I think Caroline</p> <p>16 and I want to have a discussion with you as well, so</p> <p>17 let's do 15 minutes for this break.</p> <p>18 MR. MULLANAX: Okay. I'm sorry, do you all</p> <p>19 want to talk during the break?</p> <p>20 MS. PAGE: Can we call you, Greg, on the</p> <p>21 number that we used yesterday?</p> <p>22 MR. MULLANAX: Yeah, call me. I'm sitting</p> <p>23 right here.</p> <p>24 MR. COWNAN: Let's plan to come back, if it's</p> <p>25 okay with you guys, let's plan to come back at 11:50.</p>	<p>Page 61</p> <p>1 promotion process is not transparent. "The lack of</p> <p>2 transparency has created a level of distrust of the</p> <p>3 process in segments of the department."</p> <p>4 Do you see that there?</p> <p>5 A. Yes.</p> <p>6 Q. And we discussed that, I think previously.</p> <p>7 But then they recommend in 91.1, "The SFPD should</p> <p>8 increase the level of transparency of the promotion</p> <p>9 process and should clearly outline the qualifications</p> <p>10 required to advance the promotion." Do you believe the</p> <p>11 SFPD has complied with this recommendation?</p> <p>12 A. Yes, I do.</p> <p>13 Q. And how have you complied with it?</p> <p>14 A. Well, we -- the part of the bulletin that you</p> <p>15 showed me earlier was documentation that we put out to</p> <p>16 the entire membership of the police department.</p> <p>17 Document what the process is. Meaning from start to</p> <p>18 finish, actually. And that is part of the process,</p> <p>19 again, having the open hours as open office hours for</p> <p>20 anybody that wanted to discuss with me whatever they</p> <p>21 wanted to discuss.</p> <p>22 That was a part of the process in terms of me</p> <p>23 and other members of the command staff actually talking</p> <p>24 to line up, you know, even the meeting that you</p> <p>25 referenced with the POA, which was one of, you know,</p>
<p>1 MR. MULLANAX: Okay. 11:50.</p> <p>2 (Recess)</p> <p>3 BY MR. MULLANAX:</p> <p>4 Q. All right. I guess we are ready to go back on</p> <p>5 the record.</p> <p>6 So, Chief Scott, we are reconvening after a</p> <p>7 break, and you realize you are still under oath?</p> <p>8 A. Yes.</p> <p>9 Q. Okay. I'm going to refer back to Exhibit 4,</p> <p>10 let me share that, that we were discussing before the</p> <p>11 break. And that's that Collaborative Reform Initiative</p> <p>12 from October of 2016. Do you see that on your screen?</p> <p>13 A. Yes.</p> <p>14 Q. Okay. I'm going to go -- I made it into a</p> <p>15 three-paged document. The last page has some</p> <p>16 recommendations on there. Do you -- it has findings and</p> <p>17 recommendations. Do you recall reading the findings and</p> <p>18 recommendations?</p> <p>19 A. Yes.</p> <p>20 Q. There's a lot of them, there's probably 100 or</p> <p>21 so. But if we go back down to, if you look on that</p> <p>22 page, can you read the text okay?</p> <p>23 A. Yes, thank you.</p> <p>24 Q. Okay. If we go to finding 91, which is about</p> <p>25 halfway down the page it says they find that the</p>	<p>Page 62</p> <p>1 more than, talked with POA on more than one occasion,</p> <p>2 but that was a part of making attempts to convey to our</p> <p>3 membership what the process is, and that recommendation</p> <p>4 speaks specifically to transparency of the promotion</p> <p>5 process.</p> <p>6 The process. I mean, that's the operative</p> <p>7 word, process. And that's what it speaks to. What is</p> <p>8 the process? And we've done a lot to at least convey to</p> <p>9 members what the process is.</p> <p>10 Q. And you are referring to that Exhibit 3 we</p> <p>11 talked about earlier; right? (Indicating)</p> <p>12 A. Yes.</p> <p>13 Q. Okay. Thank you for that. Recommendation</p> <p>14 91.2, it says, "The SFPD should consider providing</p> <p>15 feedback to unsuccessful candidates for promotion as a</p> <p>16 means of advancing institutional knowledge and</p> <p>17 performance improvement."</p> <p>18 Has the SFPD provided feedback to unsuccessful</p> <p>19 candidates?</p> <p>20 MR. COWNAN: Objection on relevance grounds,</p> <p>21 but you can answer it.</p> <p>22 THE WITNESS: Oh, thank you. So the feedback</p> <p>23 of one of the -- one of the ways that we've attempted to</p> <p>24 do that was the open office hours, and that was, of</p> <p>25 course, as I mentioned earlier, and it is part of at the</p>

POLICE CHIEF WILLIAM SCOTT VOLUME I  
Frederick (Ric) Schiff vs Greg SuhrApril 06, 2021  
85-88

Page 85	Page 87
<p>1 number is determined, the number of notifications to 2 submit secondary criteria is based on that number. 3 Q. Okay. 4 A. So let's say that number goes out today and 5 tomorrow and I'll, for the sake of it, your question, 6 speak to the sergeant's rank. And the notice goes out 7 today, based on the number of vacancies that we have 8 today. If tomorrow two additional sergeants retire, 9 there are two additional vacancies, but we won't send 10 another secondary criteria request. Those two 11 additional vacancies, if we didn't request for those to 12 be included in this round of promotions, we have to wait 13 until we make that request for those additional two. 14 So it doesn't automatically mean that while we 15 are evaluating secondary criteria more vacancies come up 16 those positions can be considered for a promotion at 17 that time. 18 Q. Oh, so what you are saying is they can't, 19 then, they have to wait until another request for a 20 secondary criteria? 21 A. Yeah, because we have to get approval for 22 that. We have to get approval for the amount of people 23 that we are going to promote, the amount of members that 24 we are going to promote. And how many, in terms of the 25 Rule of Ten, it is determined by the number of</p>	<p>1 candidate pool is the candidate pool. 2 So however that is made up in terms of 3 diversity, demographics, what have you, it just expands 4 the pool. So there is no guarantee that you are going 5 to get one group more of one group or one group more of 6 another group. It just doesn't work that way. A pool 7 is a pool. I mean, it is made up of the membership of 8 the department. But the Rule of Ten expands the pool, 9 and whatever that captures, it captures. 10 MR. MULLANAX: I think that's all I have 11 today. So it's like 12:39. So I guess we may reconvene 12 on April 28th. Is that the best way to say it? 13 MR. COWNAN: To discuss the topic of secondary 14 criteria and what packets are or what the Chief thought 15 that would be; correct. 16 MR. MULLANAX: That we talked about, okay. 17 MR. COWNAN: Okay. 18 MR. MULLANAX: Well, I appreciate you 19 appearing today, Chief. Thank you very much. 20 THE WITNESS: Thank you. Okay. 21 MR. COWNAN: Off the record. 22 (A discussion was held off the record) 23 THE COURT REPORTER: Are you ordering a copy? 24 MR. COWNAN: Yes, we are. 25 (The deposition was adjourned at 12:42 P.M.)</p>
Page 86	Page 88
<p>1 vacancies. 2 So once that goes out, the way it has been 3 done since I have been here, if we get additional 4 vacancies after that secondary criteria request, we will 5 wait until the next round of promotions to fill those 6 vacancies. 7 Q. Okay. Thank you for explaining that to me. 8 That makes sense. 9 Do you recall back in May of 2017 a Woman's 10 Network meeting held at the San Francisco police 11 headquarters? 12 A. I met with, if you are talking about the POA 13 Women's Committee? 14 Q. Yes, sir. 15 A. That they were called at that time? If you 16 are asking if I recall meeting with them, yes. 17 Q. Did you make any comment about using the Rule 18 of Ten scores to address the issue of increasing the 19 number of minorities and women in the police force? 20 A. I don't remember making that specific comment, 21 no. 22 Q. Is that comment, can you use the Rule of Ten 23 to address issues of diversity in gender and race? 24 A. Well, what the Rule of Ten does, is it expands 25 the candidate pool, however that lies. It, the</p>	<p>1 REPORTER'S CERTIFICATION 2 3 I, Vanessa Harskamp, Certified Shorthand 4 Reporter in and for the State of California, do hereby 5 certify: 6 That the foregoing witness was by me duly 7 <small>800.211.DEP0 (3376)</small> 8 sworn, that the deposition was then taken before me at 9 the time and place herein set forth; that the testimony 10 and proceedings were reported stenographically by me and 11 later transcribed into typewritten form under my 12 direction; that the foregoing is a true record of the 13 testimony and proceedings taken at that time. 14 I further certify that I am not related to any 15 of the parties to this action by blood or marriage, and 16 that I am in no way interested in the outcome of this 17 matter. 18 IN WITNESS WHEREOF, I have subscribed my name 19 this 16th day of April, 2021. 20 21 22 23 24 25</p> <p style="text-align: right;"><i>Vanessa Harskamp</i></p> <p style="text-align: right;">VANESSA HARSKAMP, RPR, CRR, CCP, CSR NO. 5679</p>

**WILLIAM SCOTT III VOLUME II**  
**Schiff vs San Francisco**

**October 18, 2021**  
**92-95**

	Page 92		Page 94
1	UNITED STATES DISTRICT COURT	1	APPEARANCES:
2	NORTHERN DISTRICT OF CALIFORNIA	2	JOSEPH EMANUEL
3		3	BRIAN GREER
4	Frederick (Ric) Schiff; ) Case No. 4:19-cv-03260-YGR	4	
5	Glenn Brakel; Alice )	5	
6	Dicroce; Joseph Emanuel; )	6	
7	Brian Greer; Clayton )	7	
8	Harmston; Steven Haskell; )	8	
9	Micah Hope; Daniel Kelly; )	9	
10	Alexander Lentz; Brandon )	10	
11	McKelley; Gerald Newbeck; )	11	
12	Plaintiffs, )	12	
13	vs. WILLIAM SCOTT III VOLUME II	13	October 18, 2021
14	Schiff vs San Francisco	14	
15	City and County of )	15	
16	San Francisco; Greg Suhr; )	16	
17	William (Bill) Scott, )	17	
18	individually; and )	18	
19	DOES 1-20, )	19	
20	Defendants. )	20	
21		21	
22	CONFIDENTIAL - PURSUANT TO THE PROTECTIVE ORDER	22	
23	VOLUME II	23	
24	ZOOM VIDEOCONFERENCE DEPOSITION OF	24	
25	WILLIAM SCOTT, III	25	
	PAGES 92 THROUGH 144		
	SAN FRANCISCO, CALIFORNIA		
	OCTOBER 18, 2021		
	REPORTED BY: MICHAEL CUNDY, CSR 12271		
	Page 93		Page 95
1	DEPOSITION OF WILLIAM SCOTT, III, taken	1	I N D E X
2	at 1245 Third Street, Sixth Floor, San Francisco,	2	
3	California, on Monday, October 18, 2021, at 10:15 A.M.,	3	WITNESS: William Scott, III
4	before Michael Cundy, Certified Shorthand Reporter, in	4	
5	and for the State of California.	5	EXAMINATION:
6		6	PAGE
7	APPEARANCES:	6	By Mr. Mullanax
8	FOR THE PLAINTIFFS:	7	96, 137
9	LAW OFFICE OF M. GREG MULLANAX	8	
10	BY: M. GREG MULLANAX, ESQ.	9	
11	(Via videoconference)	10	INDEX OF EXHIBITS
12	2140 N. Winery Avenue	11	EXHIBITS
13	Suite 101	12	MARKED
14	Fresno, California 93703	13	Exhibit 7 Q50 through Round 3
15	(559) 420-1222	14	CCSF 020772 through
16	greg@lawmgm.com	15	Exhibit 8 Q050 Sergeant Promtional Grid
17		16	CCSF 020775
18	FOR THE DEFENDANTS:	17	Exhibit 10 Q060 Sergeant Promtional Grid
19	OFFICE OF THE CITY ATTORNEY	18	CCSF 008768 through
20	BY: PETER A. COWNAN, ESQ.	19	CCSF 008771
21	CAROLINE PAGE	20	
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**WILLIAM SCOTT III VOLUME II**  
**Schiff vs San Francisco**

**October 18, 2021**  
**96-99**

<p>Page 96</p> <p>1 SAN FRANCISCO, CALIFORNIA; MONDAY, OCTOBER 18, 2021  2 10:15 O'CLOCK A.M.  3 -0Oo-  4  5 Whereupon,  6 WILLIAM SCOTT, III,  7 having first been called as a witness, was duly sworn  8 and testified as follows:  9  10 EXAMINATION  11 BY MR. MULLANAX:  12 Q Good morning, Chief Scott. You may recall, I'm  13 Greg Mullanax. I represent the <del>WILLIAM SCOTT III VOLUME II</del>  14 Schiff vs San Francisco  15 Do you remember our deposition from -- I think  16 it was back in April?  17 A I do.  18 Q Okay. And this is just continuing from that  19 deposition, and I think we will -- I don't think we will  20 be here very long today, but I appreciate your  21 appearance here this morning.  22 A Sure. Thank you.  23 Q Last time, we talked about the promotional  24 process and the rule of 10 and things like that, and I  25 just want to verify that I understood your testimony  correctly on a couple of issues.</p>	<p>Page 98</p> <p>1 Q Okay. What did you have then when making the  2 promotional decisions?  3 A So I had the matrix, and then each member that  4 reviewed the secondary criteria packages completed a  5 recommendation sheet, for lack of a better way to put  6 that.  7 Q Okay.  8 A And so that's what I had as well, each  9 individual member's recommendation sheet.  10 Q Okay. So the matrix and the recommendation  11 sheets; is that correct?  12 A That is correct.  13 Q And my question on those documents is that  14 those documents didn't refer to anybody by their race or  15 sex or any characteristics like that; is that correct?  16 A That's correct.  17 Q After you made your decisions on the promotions  18 but before they were announced, did you ever ask the  19 secondary -- did you ever tell the secondary criteria  20 committee this is what the promotions you wanted to  21 make, and did they have any comments on it or anything  22 like that?  23 A Let me make sure I understand. Can you ask the  24 question one more time? I want to make sure I  25 understand your question.</p>
<p>Page 97</p> <p>1 One of the issues is that you had your command  2 staff, which is what I was calling promotional  3 committee, but basically, your command staff, assistant  4 chiefs, that prepared spreadsheets with their  5 recommendations on them, and they provided that  6 information to you; is that correct?  7 A That is partially correct.  8 Q What all did you review in making your  9 promotional decisions?  10 A The matrix that you referred to is what I  11 reviewed along with the recommendations from the members  12 of the secondary criteria committee.  13 Q And the secondary criteria committee, is that  14 your command staff?  15 A That is not the entire command staff, no.  16 Q Okay. Who composed the secondary criteria  17 committee?  18 A It's the assistant chiefs and the deputy  19 chiefs.  20 Q Okay. So my understanding is that, after they  21 went through and reviewed the secondary criteria of all  22 of the applicants, then they filled out their documents  23 and then forwarded that to you with the matrix, I guess,  24 that was prepared by DHR; is that correct?  25 A No, that's not correct.</p>	<p>Page 99</p> <p>1 Q Yes, sir.  2 MR. COWNAN: Just to be helpful, I think you  3 had two questions there. I think it will be helpful if  4 you break it down into one or two separate ones.  5 MR. MULLANAX: Thank you, Peter. It was a bad  6 question.  7 BY MR. MULLANAX:  8 Q So, Chief Scott, after you reviewed the  9 information and you made your promotional decisions, did  10 you convey your decisions to the command staff or those  11 that were composed of the secondary criteria committee?  12 A No, not -- no. Not as a group, no.  13 Q <del>800.211.DEPO (3376)</del> it to any individuals and ask  14 for any feedback on your decisions on the promotions?  15 A I didn't ask for feedback, but I did provide it  16 to at the time -- whoever is sitting as the chief of  17 staff with the particular promotion.  18 Q And that was not for purposes of receiving  19 feedback, that was just for informing them of your  20 decision; is that correct?  21 A Correct, yes.  22 Q Now, in the promotional process, the city is  23 engaged in contracts with outside contractors in helping  24 to prepare the promotional exams.  25 Are you aware of that?</p>

WILLIAM SCOTT III VOLUME II  
Schiff vs San FranciscoOctober 18, 2021  
100-103

Page 100	Page 102
<p>1 A Are you talking about for the civil service  2 promotional exams -- promotional exams?  3 Q Yes, sir.  4 A Yes.  5 Q And what is the purpose of retaining an outside  6 contractor for the promotional process?  7 MR. COWNAN: If you know.  8 THE WITNESS: My understanding is the outside  9 company actually prepares the exam -- examination, so  10 the -- the written examination part as well as the --  11 there's a second part of the examination where members  12 from departments outside of the San Francisco Police  13 Department are brought in <del>to participate in the interviews.</del>  14 That outside company also assists with that process.  15 BY MR. MULLANAX:  16 Q Do you have any involvement with the  17 contractors that are engaged to work on the promotional  18 process exam?  19 A My involvement is limited to an introduction,  20 basically, in a briefing, basically, at the beginning,  21 and that's pretty much it.  22 And then I see them -- those folks that do come  23 to town when the outside members of other departments  24 are brought in for the interview process, there is,  25 basically, a hello, and I usually greet that group</p>	<p>1 don't know if you know what that means, but it's  2 knowledge, skills, abilities, and other dimensions and  3 competencies related to a police officer's performance.  4 Have you heard that term before?  5 A I'm not familiar with that acronym, but that  6 sounds about right.  7 Q Okay. In the contract -- one of the contracts,  8 it says, the contractor shall recommend the combination  9 at different selection procedures that have been shown  10 to result in minimal adverse impact -- for example,  11 race, gender, age, and ethnicity -- that are effective  12 measurements of the critical KSAOs required for the  13 specific position. <small>October 18, 2021</small>  14 Is that your understanding of one of the  15 contractor's duties?  16 MR. COWNAN: Objection to the extent it lacks  17 foundation and assumes facts.  18 Sir, you can answer, if you know.  19 THE WITNESS: No. That's not -- I -- I am not  20 involved in that level of detail in terms of selecting  21 those contractors.  22 BY MR. MULLANAX:  23 Q But had you all ever had any discussions about  24 the selection procedure or the testing procedures that  25 may have a disparate impact on maybe different racial</p>
Page 101	Page 103
<p>1 before they start that process, but other than that, no.  2 Q Are those the subject matter experts you are  3 talking about?  4 A No.  5 Q What role does the subject matter experts have  6 in this process?  7 MR. COWNAN: Again, if you know, Chief.  8 THE WITNESS: So my understanding of the  9 subject matter experts, you are referring to the  10 internal department members who are selected as subject  11 matter experts for the purpose of coming up with the  12 material for the -- for the tests itself, the  13 examination itself.  14 BY MR. MULLANAX:  15 Q So this is -- if you know -- again, I don't  16 want to -- I don't want to ask you to speculate about  17 anything, so if you don't know the answer to anything I  18 ask, just tell us. That's perfectly acceptable.  19 So my understanding is the SMEs work with the  20 contractor in helping to develop the exams.  21 Would that be fair to say?  22 A That is my understanding, yes.  23 Q Now, in one of the contracts discusses the  24 duties of the contractor, and it says -- first of all,  25 there's an abbreviation that you use, KSAO. And KSAO, I</p>	<p>1 groups or anything like that?  2 A What's your question again? I'm sorry.  3 Q Have you ever had any discussions with the  4 contractor or internally about the testing procedures  5 and do they have like an adverse impact on certain  6 minorities or anything like that?  7 A No, I have not had that discussion.  8 Q But as far as you know, the test drafting  9 procedures and stuff, are they designed to minimize the  10 desperate impact or adverse impact on different genders  11 or race or ethnicities?  12 MR. COWNAN: I'm going to object to the extent  13 it asks <small>800.211.DEPO (3376)</small> you to speculate.  14 Sir, you can answer, if you know.  15 THE WITNESS: I -- what I know is that I expect  16 the test to be fair, and I -- like I said, I'm not  17 involved in that level of detail. But I don't know if  18 that answers your question or not, but no, I am not  19 familiar with that as you read it, but I do expect the  20 test to be as fair as it can be.  21 BY MR. MULLANAX:  22 Q Do you believe -- the tests that were given in  23 the rounds, let's say, for sergeant and lieutenant back  24 in 2017, do you think that testing process was fair?  25 A Yes.</p>

WILLIAM SCOTT III VOLUME II  
Schiff vs San FranciscoOctober 18, 2021  
104-107

<p style="text-align: right;">Page 104</p> <p>1 Q Do you think the scoring -- do you think there 2 was any scoring that had adverse impact on certain 3 racial groups or genders? 4 A No. 5 MR. COWNAN: Belatedly, I object to the extent 6 that calls for expert opinion. 7 BY MR. MULLANAX: 8 Q But you have been involved in the police -- I 9 think you were hired by LAPD back in 1989; is that 10 correct? 11 A Yes. 12 Q And since then, you have worked your way up. I 13 think you were assistant chief of every unit at LAPD; is 14 that correct? 15 A Deputy chief. 16 Q Deputy chief, I'm sorry. 17 And then you came here and became chief of the 18 San Francisco Police Department in 2017; is that 19 correct? 20 A Yes. 21 Q So based on all of those years of experience 22 from the -- starting from entry level to the top 23 position, this testing round that occurred for the 24 promotion that occurred in 2017 and 2018 and 2019, do 25 you think the testing procedure was fair?</p>	<p style="text-align: right;">Page 106</p> <p>1 Q And then we have the second -- well, second 2 round is orange, and then the third round is green. 3 So that's just -- I just did that kind of as a 4 reference for us, and I guess I can mark it as 5 Exhibit 7. 6 (Exhibit 7 was marked for identification.) 7 BY MR. MULLANAX: 8 Q Now, what I want to pull it up -- this may be a 9 little difficult. It will be -- okay. 10 Can -- let me switch that to -- okay. 11 Can you see this, Chief Scott? It's an Excel 12 spreadsheet. 13 A Yes 14 Q Okay. And it's, basically, the same thing 15 except we can scroll through it as the previous one, but 16 I wanted to ask you and then I wanted to pull up -- let 17 me -- in fact, let me just hold off on this right now. 18 Let me pull up the matrix, okay. 19 This is the one I meant to pull up, and I 20 apologize for that. This is difficult to see. 21 But do you see this, Chief Scott? I'm sorry. 22 Now, do you see it? 23 A Yes. 24 Q It's a Q050 Sergeants Promotional Grid, and 25 just for the record, it's an eight-page document</p>
<p style="text-align: right;">Page 105</p> <p>1 MR. COWNAN: I'm going to object to the extent 2 it calls for the chief to speculate, and also, it calls 3 for a lay opinion. 4 Sir, you can answer the question. 5 THE WITNESS: I believe it was fair, yes. 6 BY MR. MULLANAX: 7 Q This part is going to be -- and Peter, I'll try 8 to figure out how to do this -- to do the best. 9 Let's see here. 10 I'm going to try to pull up Exhibit -- okay. 11 I'm sharing the screen. I hope you all can see 12 it. It's an eight-page document, and the first page 13 says, Q50 through round three. 14 Can you see that, Chief Scott? 15 A Yes. 16 Q Do I need to enlarge it or anything? 17 A Not for me. I can see it. 18 Q This is a document that shows the promotional 19 rounds, and I'm going through some of the pages. It's 20 not Bates stamped, but it shows who was promoted in the 21 first round as you can see by the yellow. Those in 22 yellow were promoted the first round. Those that were 23 promoted in the second round are orange-colored. 24 Do you see that? 25 A Yes.</p>	<p style="text-align: right;">Page 107</p> <p>1 starting with CCSF 8513, and that's -- I'll mark that as 2 Exhibit 8. 3 (Exhibit 8 was marked for identification.) 4 BY MR. MULLANAX: 5 Q And on here -- I'll enlarge it for you, just so 6 you can see. If I widen it like that, does that fill 7 your screen up? Can you still see that okay? 8 A I can still see it, yes. 9 Q Okay. Now, do you recognize this document? 10 A Yes. 11 Q And what is this document? 12 A That's the promotional matrix that you had 13 asked me to -- <sup>800.211.DEPO (3376)</sup> EsquireSolutions.com -- 14 Q Okay. So -- 15 A -- a copy of one of them, I would assume. 16 Q Yes. This was produced to us in discovery, and 17 it's marked confidential under the protective order that 18 we have with the court. 19 Is this the document -- so when you were making 20 promotional decisions for the sergeants' round, you had 21 this document and then plus the secondary criteria 22 recommendations from your command staff? 23 A Yes. 24 Q Okay. Now, here on the sergeants -- we can go 25 down to -- let's see -- like, to 140, you see Domingo</p>

WILLIAM SCOTT III VOLUME II  
Schiff vs San FranciscoOctober 18, 2021  
108-111

Page 108	Page 110
<p>1 Williams there. He -- well, let me ask you this: On 2 the left side, what does it mean where it says number on 3 that first column?</p> <p>4 MR. COWNAN: If you know.</p> <p>5 THE WITNESS: The number is just a numerical 6 number from one to -- the first person on the list to 7 whatever the last person on the list.</p> <p>8 BY MR. MULLANAX:</p> <p>9 Q To give everyone a number?</p> <p>10 A The numbers -- basically, it's a count of the 11 number of people on the list, basically.</p> <p>12 Q Okay. Then if you see the next column, it says 13 rank.</p> <p style="text-align: right;">WILLIAM SCOTT III VOLUME II Schiff vs San Francisco</p> <p>14 Do you see that column?</p> <p>15 A Yes.</p> <p>16 Q What does rank mean?</p> <p>17 A Rank is their rank, what score, if you will -- 18 what score did they meet.</p> <p>19 Q And so we can have multiple people in the same 20 rank; is that correct?</p> <p>21 A Yes.</p> <p>22 Q For example, rank number four, we have two 23 applicants, and they both have 989 scores; is that 24 correct?</p> <p>25 A Yes.</p>	<p>1 to promote Mr. Williams over people that were much 2 higher on the list?</p> <p>3 A He's eligible. Just like everybody else who 4 was promoted, they are all eligible.</p> <p>5 There's no rule of promoting the exact order of 6 the scores on the list.</p> <p>7 The chief executive -- in this case, the chief 8 of police -- has the ability to promote from the list of 9 eligible candidates for the amount of positions that are 10 open.</p> <p>11 Q So --</p> <p>12 A So in other words, I can pick from anywhere in 13 that list of eligible candidates. That's within the 14 rules.</p> <p>15 Q And it's at your discretion?</p> <p>16 A Yes.</p> <p>17 Q And do you recall what factors you use to make 18 a decision to promote Domingo Williams over someone who 19 was higher on the list?</p> <p>20 MR. COWNAN: Greg, you are asking -- I think 21 we're getting tripped up with the comparative. You are 22 asking specifically if Chief Scott remembers any of the 23 reasons why Mr. Williams was actually promoted; is that 24 right?</p> <p>25 MR. MULLANAX: Yes.</p>
<p>1 Q And so the score column, is that the score that 2 the applicant achieved on the test?</p> <p>3 A Yes. That is my understanding, yes.</p> <p>4 Q Okay. So if we go down to Domingo Williams, he 5 was number, let's say, 140.</p> <p>6 Do you see him there?</p> <p>7 A Yes.</p> <p>8 Q And his rank is number 80. Now, he was 9 promoted in the first round, but he's pretty far down 10 the list.</p> <p>11 Do you recall why you promoted Domingo 12 Williams?</p> <p>13 A Well, I can only promote who is eligible.</p> <p>14 Q Okay.</p> <p>15 A And he was eligible.</p> <p>16 Q But did you promote Domingo Williams over 17 someone that was higher on the list?</p> <p>18 A That's the rule of the list.</p> <p>19 Q Was your decision based on the information 20 that's on this promotional grid?</p> <p>21 A The information on the promotional grid, yes, 22 that is -- partially the decision is based on that and 23 the recommendations, and then ultimately, it's my 24 decision in terms of who I'm going to promote.</p> <p>25 Q But can you give us an indication why you chose</p>	<p>1 MR. COWNAN: Chief, do you understand that?</p> <p>2 THE WITNESS: Yes.</p> <p>3 MR. COWNAN: As you sit here today, do you 4 recall any of the reasons why you promoted Domingo 5 Williams?</p> <p>6 THE WITNESS: Well, I can tell you what the 7 process is.</p> <p>8 When I look at the secondary criteria, as you 9 can see, no two candidates are exactly alike. They all 10 bring something different to the table. They all bring 11 something different to the equation.</p> <p>12 And I'm able to take from the list of eligible 13 candidates no magic formula, if that's what 14 you are asking, Mr. Mullanax.</p> <p>15 I have a group of eligible candidates. I can 16 pick from any of them within that group, and that's fair 17 and within the rules.</p> <p>18 BY MR. MULLANAX:</p> <p>19 Q Well, and I'm -- I'm not trying to fuss with 20 you. I'm just trying to find out if you can tell from 21 looking at this matrix why you chose Domingo Williams 22 over someone that was ranked much higher.</p> <p>23 Is there anything in the qualifications that 24 you can see on there that would show that he might be 25 promoted over, let's say, number 17 or, let's say, Greg</p>

WILLIAM SCOTT III VOLUME II  
Schiff vs San FranciscoOctober 18, 2021  
112-115

<p>Page 112</p> <p>1 Scott, number 19? I mean, I don't want to go -- we're 2 not going to go through all of these. I'm just trying 3 to get an idea of what you looked at when you made your 4 decisions.</p> <p>5 A I look at the list of eligible candidates, and 6 from there, everybody brings something a little bit 7 different to the table.</p> <p>8 As you can see, those Xs represent the 9 secondary criteria experience and training and all of 10 these different things. Nobody is the same.</p> <p>11 And part of this process is -- from my vantage 12 point, is trying to get a good mix of people that are 13 going to move this department forward and available to 14 do that from the list of candidates. They all are 15 eligible, or they wouldn't be on the list.</p> <p>16 Q Well, and I'm not going to -- again, I'm not 17 fussing with you about their eligibility. I'm just 18 trying to find out the decision-making process.</p> <p>19 Based on this grid, can you say what Domingo 20 Williams brought to the table as opposed to someone who 21 was ranked much higher?</p> <p>22 A As long as he's eligible. You look at his 23 secondary criteria, and he has some boxes checked, some 24 not, just like every other candidate, but he's eligible.</p> <p>25 He, like all of the other candidates that were</p>	<p>Page 114</p> <p>1 Q If you go -- say, go back to Exhibit 8, if we 2 look at what -- Raymond Padmore, number 134, he was 3 ranked -- he was promoted in the first round.</p> <p>4 What do you recall about Raymond Padmore's 5 factors that made you decide to promote him?</p> <p>6 A He's eligible. He's eligible. You look at his 7 secondary criteria. He has got a lot of boxes checked, 8 not all, but he's eligible just like all of the other 9 candidates that were selected.</p> <p>10 Q Did you --</p> <p>11 A One thing I can say about Raymond Padmore is 12 that I actually got a chance to see his work because he 13 worked -- <del>at the time</del> <sup>at the time</sup> he got here, he worked actually in 14 the chief's office, but I did get to see his work. I 15 got to see how you dealt with people in many different 16 occasions, so there was some familiarity with him.</p> <p>17 But aside from that, I mean, you look at the 18 secondary criteria. He's eligible, and he's got a lot 19 of -- a lot of those boxes checked, just like a lot of 20 the other candidates.</p> <p>21 Q So at least you had some personal knowledge of 22 Officer Padmore; is that correct?</p> <p>23 A Yes.</p> <p>24 Q Did you have any personal knowledge of Domingo 25 Williams?</p>
<p>Page 113</p> <p>1 selected, were in the group that I was able to choose 2 from. They all bring unique experiences based on who 3 they are, what they have done, and they are eligible.</p> <p>4 I don't know how else to answer that.</p> <p>5 Q Okay. This is -- I'm going to show you 6 Exhibit 9.</p> <p>7 (Exhibit 9 was marked for identification.)</p> <p>8 BY MR. MULLANAX:</p> <p>9 Q And it starts with page CCSF 20772, and it's a 10 four-page document that ends on page 20775.</p> <p>11 Can you see that, Chief?</p> <p>12 A Yes.</p> <p>13 Q And do you recognize this document?</p> <p>14 A It looks like -- well, it looks like the same 15 document or same type of document.</p> <p>16 Q It's entitled, the Q050 Sergeant Promotional 17 Grid, and it looks like it starts at rank 17 whereas the 18 previous one started at rank number one.</p> <p>19 But is this the document that you had with 20 you -- it appears to be -- and I don't want you to 21 speculate, but it appears to be maybe the second round 22 of promotional decisions on the sergeants.</p> <p>23 A I'm not sure which round it is, but it's the 24 same type of matrix. I mean, the matrix is familiar to 25 me. I'm not sure when that was presented to me.</p>	<p>Page 115</p> <p>1 A Not to the degree that I had with Raymond 2 Padmore, but I saw him on occasion do his work in the 3 field.</p> <p>4 Q Darius Jones, he is number -- ranked number -- 5 rank order number 138.</p> <p>6 Do you recall his promotion, or do you know 7 him?</p> <p>8 A I know who he is, yes.</p> <p>9 Q Do you know why you promoted him in the first 10 round?</p> <p>11 A The same answer, he's eligible, and he was 12 promoted.</p> <p>13 It's <sup>800.211.DEPO (3376)</sup> <del>EsquireSolutions.com</del> for everybody that was 14 promoted in that first round, they are eligible. They 15 are within the group that I had to choose from, and they 16 were promoted based on what I thought was the best thing 17 for this department at that time.</p> <p>18 Q Okay. On the different columns where we see 19 the different Xs, are there any of those columns that 20 you give priority to as opposed to other columns?</p> <p>21 A There's no -- if you are asking priority -- 22 make-or-break type of priority, no, but I will say this: 23 One of the things that I was very interested in seeing 24 was the CIT training, which is on the far right-hand, 25 and it's -- again, it's not a make-or-break thing.</p>

## WILLIAM SCOTT III VOLUME II Schiff vs San Francisco

October 18, 2021  
116–119

Page 116	Page 118
1 But at the time that I came into this 2 department, one of the things that we were trying to get 3 better at was de-escalation, CIT, crisis intervention, 4 to reduce the -- or to have better outcomes for these 5 critical incidents, so not a make-or-break but 6 definitely is something that I paid attention to.	1 that training, but again, not everybody can take the 2 training all at one time, so it's not a make-or-break 3 thing, even with that.
7 Q And now CIT is crisis intervention training; is 8 that correct?	4 Q Now, during the promotional process, was there 5 effort by your office to enlarge the applicant pool, 6 let's say, for the sergeants?
9 A That is correct.	7 MR. COWNAN: At what period of time, Greg?
10 Q And then PCIT is police crisis intervention 11 training.	8 MR. MULLANAX: 2017 to 2019.
12 Do you see that?	9 THE WITNESS: An effort to enlarge the 10 candidate pool, no. I wouldn't say that is the case, 11 no.
13 A Yes.	12 MR. COWNAN: May I belatedly object to the form 13 of the question. It's <del>too</del> <sup>too</sup> vague and overbroad, but it's 14 been answered, so let's go to the next question.
14 Q What is the difference between crisis 15 intervention training and the police crisis intervention 16 training?	15 BY MR. MULLANAX:
17 A I don't know if it's police crisis 18 intervention, but my understanding is there's two 19 modules of training. There's a 40-hour module of CIT 20 training, basically, a week-long -- a week of training, 21 and then there's a shorter block of training.	16 Q There were some e-mails -- I won't bring them 17 up here because I don't think, Chief, you were involved 18 in the e-mail, but there were just some e-mails, I 19 think, DHR asking about was there an opportunity or was 20 it -- would there be an opportunity to enlarge the 21 applicant pool.
22 Basically, this was more the practical hands-on 23 training that -- for officers in the field. That was 24 a -- it's actually 10 hours of crisis intervention and 25 10 hours of use-of-force training, so that's the	22 And my question surrounding that would be, is 23 there a reason why you would want to enlarge the 24 applicant pool?
1 difference between the two.	25 A Well --
Page 117	Page 119
2 Q How much -- those courses, are they taught 3 in-house? Would they go to POST, or how is that done?	1 MR. COWNAN: I'm going to object. Object to 2 the form of the question. Object that it assumes facts, 3 and it may call for the chief to speculate.
4 A They are taught in-house.	4 Chief, if you can answer and can answer, please 5 do so.
5 Q Chief, did you -- I'm sure you did, but did you 6 factor in, like, awards like medals of valor and things 7 like that?	6 THE WITNESS: Well, my understanding of what 7 you are asking me is that the -- the objective is not to 8 enlarge the candidate pool. The objective is if we have 9 additional positions that are open while we're in this 10 process of promotion, I want to fill those positions.
8 A Yes. So everything in the secondary criteria 9 is factored in. This is part of what secondary criteria 10 is about, so the candidates can say what it is that they 11 bring to the position that they are applying for, so 12 everything is factored in.	11 The way we have done promotion since I have 12 been here, and my understanding is we have done it this 13 way for <del>800-211-DEPO-1378</del> <sup>800-211-DEPO-1378</sup> <sup>esquireSolutions.com</sup> we typically make these 14 promotions once a year. There may be -- may have some 15 sometimes where it might have been twice a year, but 16 usually, once a year.
13 Q So there is no -- just to summarize, you had no 14 formula, it's just based on what you saw from your -- 15 the promotional committee to review of the secondary 16 criteria, their recommendations, and then this matrix, 17 and then you made decisions based on that; is that 18 correct?	17 And when I arrived here, we had very high 18 vacancy rates in our promotional positions from sergeant 19 through academy. Basically, all of the positions had 20 vacancies and a significant amount of them.
19 A Yes, that's correct. And specifically, there 20 is no formula. There is no one of the criteria has more 21 points than the other. It's just -- there is no formula 22 like that.	21 So in terms of filling these positions, the 22 objective is to fill the positions, if we can, while we 23 are making promotions, not for the purposes of 24 increasing the pool but for the purposes of filling the 25 vacant positions, if we can.
23 I did and I still do care greatly about crisis 24 intervention training, because I believe this department 25 has gotten much better and better outcomes because of	

WILLIAM SCOTT III VOLUME II  
Schiff vs San FranciscoOctober 18, 2021  
120-123

Page 120	Page 122
<p>1 BY MR. MULLANAX:</p> <p>2 Q Chief, can you use like-work-like-pay to fill</p> <p>3 in, let's say, a sergeant's position for any openings</p> <p>4 that come up before the promotions are actually made?</p> <p>5 A I don't -- if you are asking, can you use</p> <p>6 like-work-like-pay to fill a position, the answer is no.</p> <p>7 Can you temporarily put somebody in a</p> <p>8 like-work-like-pay to do the job if there is a vacancy,</p> <p>9 the answer is yes. That's not a permanent fix, nor is</p> <p>10 it in the best interest of the department to do that on</p> <p>11 a long-term basis, in my opinion.</p> <p>12 Q So most of those -- in a situation like where,</p> <p>13 let's say, you have a sergeant position open because</p> <p>14 someone got sick or whatever and the promotion is not</p> <p>15 going to be made for another six months, you could put</p> <p>16 someone in as an acting sergeant under</p> <p>17 like-work-like-pay until the promotion process is done;</p> <p>18 is that correct?</p> <p>19 MR. COWNAN: Let me object to the extent it</p> <p>20 calls for an incomplete hypothetical.</p> <p>21 Sir, you can answer.</p> <p>22 THE WITNESS: Well, that's correct, but let me</p> <p>23 put some context in that.</p> <p>24 BY MR. MULLANAX:</p> <p>25 Q Okay.</p>	<p>1 MR. COWNAN: Off the record.</p> <p>2 (A short break was taken.)</p> <p>3 BY MR. MULLANAX:</p> <p>4 Q Thank you for the break.</p> <p>5 Chief Scott, do you realize you are still under</p> <p>6 oath?</p> <p>7 A Yes.</p> <p>8 Q Okay. I just wanted to ask you a little bit</p> <p>9 about the test, the process.</p> <p>10 When you are -- when the police department</p> <p>11 gives these promotional exams, these civil servant</p> <p>12 exams, what is the purpose of those exams?</p> <p>13 MR. COWNAN: If you know.</p> <p>14 THE WITNESS: The purpose of the -- are you</p> <p>15 talking about the written exam, if I can clarify the</p> <p>16 question?</p> <p>17 BY MR. MULLANAX:</p> <p>18 Q Yes, sir.</p> <p>19 A Yes. The purpose of the exam is to determine</p> <p>20 which candidates are -- are eligible for the position</p> <p>21 that they are seeking.</p> <p>22 So the exam has a score, of course, and if you</p> <p>23 go below a score and fail the exam, you are not -- you</p> <p>24 can't advance in the process or a candidate cannot</p> <p>25 advance in the process, but as you read off earlier, you</p>
<p>1 A If a person is working in a position -- let's</p> <p>2 say, a police officer is working in the position of a</p> <p>3 sergeant, per our memorandum of understanding or MOU,</p> <p>4 they have to be paid for the work that they are doing,</p> <p>5 so that is the rule. It's not optional. If they are</p> <p>6 working in that position, they have to be paid for it.</p> <p>7 That is not the ideal situation, though. We do</p> <p>8 it all out of necessity. We do it because we have an</p> <p>9 agreement between the department and the Police Officers</p> <p>10 Association to pay people when they are performing a job</p> <p>11 based on the duties they are performing, so it's the</p> <p>12 right thing to do. And that is not the ideal to fill</p> <p>13 vacancies in that manner for substantial amounts of</p> <p>14 time. We do it because we have to.</p> <p>15 MR. MULLANAX: Okay. Peter, I don't have a</p> <p>16 whole lot left. Do you mind if we take a 10-minute</p> <p>17 break --</p> <p>18 MR. COWNAN: No. Let's do that.</p> <p>19 MR. MULLANAX: -- and then come back?</p> <p>20 MR. COWNAN: Yes.</p> <p>21 MR. MULLANAX: Do you want to, say, come back</p> <p>22 at 11:00?</p> <p>23 MR. COWNAN: Yes. Let's do that.</p> <p>24 MR. MULLANAX: Okay. Thank you.</p> <p>25 We will go off the record.</p>	<p>1 know, to -- part of this process is trying to determine</p> <p>2 who has the skills that the department is looking for to</p> <p>3 fill those positions.</p> <p>4 Q And the testing is supposed to help measure</p> <p>5 whether the applicants have the skills necessary for</p> <p>6 promotion?</p> <p>7 A Skills, knowledge, skills. I mean, it's the</p> <p>8 process between the written and the interview and the</p> <p>9 secondary criteria. All of that information is pulled</p> <p>10 out, and from there we can make a decision on the</p> <p>11 eligible candidates to promote or who is eligible for</p> <p>12 promotion anyway.</p> <p>13 Q <i>800.211.DEP0 (3376)</i> <i>EsquireSolutions.com</i></p> <p>14 is that correct?</p> <p>15 A There is.</p> <p>16 Q The results of the interview, is that -- is</p> <p>17 that combined with the written portion to come up with a</p> <p>18 final score?</p> <p>19 A That is, yes, my understanding.</p> <p>20 MR. COWNAN: Belatedly to this string,</p> <p>21 foundation.</p> <p>22 BY MR. MULLANAX:</p> <p>23 Q Is that a similar procedure to what you all had</p> <p>24 at the Los Angeles Police Department?</p> <p>25 A Similar -- not exactly the same but similar.</p>

## WILLIAM SCOTT III VOLUME II Schiff vs San Francisco

October 18, 2021  
140–143

Page 140		Page 142
1	don't, let me know.	1 DEPOSITION ERRATA SHEET
2	Let's say you knew for the sergeants' exam that	2
3	you had 76 positions that you could promote. Could you	3
4	figure out from before you started making any promotions	4 Our Assignment No. J7435168
5	how far down on the list you could go?	5 Case Caption: Schiff
6	A It's a math equation, basically, so what --	6 vs. City and County of San Francisco
7	however many your ranks that is the plus nine for that	7
8	76, that's how far you can go, and depending on how many	8 DECLARATION UNDER PENALTY OF PERJURY
9	people are in those ranks, that's how many people that	9 I declare under penalty of perjury
10	are in the eligible list.	10 that I have read the entire transcript of
11	MR. MULLANAX: All right. I have no further	11 my Deposition taken in the captioned matter
12	questions.	12 or the same has been read to me, and
13	MR. COWNAN: Okay <small>William Scott, CSR No. 12271, VOLUME II Schiff vs San Francisco</small>	13 the same <small>October 18, 2021</small> is and accurate, save and
14	MR. MULLANAX: We're off the record.	14 except for changes and/or corrections, if
15	THE REPORTER: Would you like to order a copy	15 any, as indicated by me on the DEPOSITION
16	of the transcript?	16 ERRATA SHEET hereof, with the understanding
17	MR. MULLANAX: Yes.	17 that I offer these changes as if still under
18	MR. COWNAN: Yes.	18 oath.
19	(Whereupon the deposition of William Scott,	19 Signed on the _____ day of
20	III, concluded at 11:35 A.M.)	20 _____, 20_____. 21 22 23 William Scott, III 24 25
Page 141		Page 143
1	STATE OF CALIFORNIA )	1 DEPOSITION ERRATA SHEET
2	) SS:	2 Page No. _____ Line No. _____ Change to: _____
3	CITY AND COUNTY OF SAN FRANCISCO )	3 _____
4	I, Michael Cundy, CSR No. 12271, a	4 Reason for change: _____
5	Certified Shorthand Reporter of the State of California,	5 Page No. _____ Line No. _____ Change to: _____
6	do hereby certify:	6 _____
7	That the foregoing proceedings were	7 Reason for change: _____
8	taken before me at the time and place herein set forth;	8 Page No. _____ Line No. _____ Change to: _____
9	that any witnesses in the foregoing proceedings, prior	9 _____
10	to testifying, were placed under oath; that a verbatim	10 Reason for change: _____
11	record of the proceedings was made by me using machine	11 Page No. _____ Line No. _____ Change to: _____
12	shorthand which was thereafter transcribed under my	12 _____
13	direction; further, that the foregoing is an accurate	13 Reason <small>800211DEPO(3376)</small> <small>EsquireSolutions.com</small>
14	transcription thereof.	14 Page No. _____ Line No. _____ Change to: _____
15	I further certify that I am neither	15 _____
16	financially interested in the action nor a relative or	16 Reason for change: _____
17	employee of any attorney or any of the parties.	17 Page No. _____ Line No. _____ Change to: _____
18	IN WITNESS WHEREOF, I have this date	18 _____
19	subscribed my name.	19 Reason for change: _____
20		20 Page No. _____ Line No. _____ Change to: _____
21	Dated: October 28, 2021	21 _____
22		22 Reason for change: _____
23	Michael Cundy, CSR No. 12271	23
24		24 SIGNATURE: _____ DATE: _____
25		25 William Scott, III



# ESQUIRE

DEPOSITION SOLUTIONS

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